

Chapter:	134	DANGEROUS DRUGS ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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To amend and consolidate the law relating to dangerous drugs.

[17 January 1969] *L.N. 6 of 1969*

(Originally 41 of 1968)

Part:	I	SHORT TITLE AND INTERPRETATION		30/06/1997
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Section:	1	Short title		30/06/1997
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This Ordinance may be cited as the Dangerous Drugs Ordinance.

Section:	2	Interpretation	L.N. 3 of 1999	15/01/1999
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Remarks:

Adaptation amendments retroactively made - see 13 of 1999 s. 3

- (1) In this Ordinance, unless the context otherwise requires-
- "approved" (認可) means approved by the Director for the purposes of this Ordinance;
- "authorized seller of poisons" (獲授權毒藥銷售商) means an authorized seller of poisons within the meaning of the Pharmacy and Poisons Ordinance (Cap 138);
- "cannabis" (大麻) means any plant, or any part of any plant, of the genus *cannabis* which contains tetrahydrocannabinol and the viable seeds of any plant of the genus *cannabis*; (Replaced 46 of 1978 s. 2)
- "cannabis resin" (大麻樹脂) means the separated resin, whether crude or purified, obtained from any plant of the genus *cannabis*; (Added 62 of 1994 s. 2)
- "charge" (控訴) means a complaint, information, charge or indictment;
- "Chief Pharmacist" (總藥劑師) means the person so appointed by the Chief Executive and such other person as the Director may appoint in writing to carry out the duties of the Chief Pharmacist under this Ordinance; (Amended 13 of 1999 s. 3)
- "coca leaves" (古柯葉) means the leaves of any plant of the genus of the erythroxylaceae from which cocaine can be extracted, either directly or by chemical transformation;
- "Conventions" (公約) means-
- (a)-(d) (Repealed 13 of 1999 s. 3)
 - (e) the Single Convention on Narcotic Drugs signed at New York on 30 March 1961;
 - (f) the Convention on Psychotropic Substances signed at Vienna on 21 February 1971;
 - (g) the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances signed at Vienna on 20 December 1988;
 - (h) any Convention or Protocol specified in a notice under subsection (4) to be a Convention or Protocol for the purposes of this Ordinance; and
 - (i) any convention or final protocol amending, supplementing or in substitution for any of the Conventions or Protocols referred to in paragraphs (e), (f), (g) and (h); (Replaced 89 of 1995 s. 34. Amended 13 of 1999 s. 3)
- "corresponding law" (相應法律) means a law stated in a certificate purporting to be issued by or on behalf of the government of any place outside Hong Kong to be a law providing for the control and regulation in that place of dangerous drugs in accordance with the Conventions; (Replaced 89 of 1995 s. 34)
- "dangerous drug" (危險藥物) means any of the drugs or substances specified in Part I of the First Schedule;
- "Director" (署長) means the Director of Health, Deputy Director of Health or an assistant director of health;

(Amended L.N. 76 of 1989)

"divan" (煙窟) means any place or premises opened, kept or used, whether on one occasion or more than one occasion, for the smoking, inhalation, ingestion or injection of a dangerous drug;

"diversion certificate" (轉運證明書) means a certificate issued by a competent authority in a country outside Hong Kong through which a dangerous drug passes in transit-

- (a) authorizing the diversion of such drug to a country other than that specified in the export authorization relating to that drug as the country to which it was to be exported;
- (b) containing full particulars of such drug and the quantity authorized to be diverted and of the names and addresses of the person by whom the drug is to be diverted and the person to whom it is to be sent; and
- (c) specifying the country from which the drug was originally exported;

"ecgonine" (芽子鹼) means laevo-ecgonine and any derivatives of ecgonine from which it may be recovered industrially;

"export" (出口) means to take or cause to be taken out of Hong Kong or any other country, as the case may be, by land, air or water;

"export authorization" (出口授權書) means an authorization issued by a competent authority in the country outside Hong Kong from which a dangerous drug is to be exported-

- (a) containing full particulars of such drug and the quantity authorized to be exported and of the names and addresses of the person by whom the drug is to be exported and the person to whom it is to be sent; and
- (b) specifying the country to which, and the period within which, it is to be exported;

"import" (進口) means to bring or cause to be brought into Hong Kong or any other country, as the case may be, by land, air or water;

"in transit" (過境途中) means imported into Hong Kong for the sole purpose of being exported from Hong Kong to another country;

"inject" or "injection" (注射) means injection into any person by a hypodermic syringe or any other method;

"manufacture" (製造) means any act connected with making, adulterating, purifying, mixing, separating or otherwise treating a dangerous drug; (Replaced 40 of 1982 s. 2)

"matron" (總護士長) includes any person performing the duties of a matron and any person, whatever the title of the office which he holds, performing duties of the kind performed by a matron;

"medicinal opium" (藥用鴉片) means raw opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the European Pharmacopoeia or the United States Pharmacopoeia, whether it is in the form of powder or is granulated or is in any other form, and whether or not it is mixed with neutral substances; (Amended 13 of 1999 s. 3)

"opium" (鴉片) includes raw opium, prepared opium, opium dross and every substance (other than medicinal opium) containing any proportion of raw opium, prepared opium or opium dross;

"opium dross" (鴉片煙渣) means any residue remaining after opium has been smoked;

"opium poppy" (鴉片罌粟) means a plant of the species *Papaver somniferum* L or the species *Papaver setigerum* D.C. and any plant from which morphine may be produced;

"opium water" (鴉片水) means an aqueous extract of opium; (Added 46 of 1971 s. 2)

"owner" (擁有人), in relation to any premises, includes any person holding premises direct from the Government, whether under lease, licence or otherwise, any mortgagee in possession and any person receiving the rent of any premises, solely or with another and on his own behalf or that of any person, or who would receive the same if such premises were let to a tenant, and, where such owner as above defined cannot be found or ascertained or is absent from Hong Kong or is under disability, also includes the agent of such owner; (Amended 46 of 1971 s. 2; 29 of 1998 s. 105)

"place" (場所) means any ship, aircraft, vehicle, building, structure or enclosure, whether movable or not, and any spot on land or water;

"poppy straw" (罌粟稈) means all parts, except the seeds, of the opium poppy after mowing; [cf. 1965 c. 15 s. 24(1) U.K.]

"preparation" (製劑) means a preparation, mixture, extract or other substance containing any proportion of a

dangerous drug specified in any of paragraphs 1 to 7 of Part I of the First Schedule; (Amended 46 of 1971 s. 2)

"prepared opium" (熟鴉片) includes any preparation of opium, and any substance of which opium forms an ingredient, which is used or intended to be used, or is capable of being used, for smoking, inhaling, ingestion or injection;

"prescribed hospital" (訂明醫院) means a hospital maintained by the Crown and a hospital or institution specified in the Second Schedule;

"prescription" (處方) means a prescription for a single individual given by a registered medical practitioner for the purposes of medical treatment, by a registered dentist for the purposes of dental treatment or by a registered veterinary surgeon for the purposes of animal treatment; (Amended 96 of 1997 s. 32) [cf. S.I. 1964/1811 reg. 32(1) U.K.]

"raw opium" (生鴉片) means any kind of opium not prepared for smoking, inhaling, ingestion or injection and also means the leaves or wrappings in which raw opium has been wrapped, but does not include opium dross;

"registered dentist" (註冊牙醫) means-

- (a) a dentist registered under the Dentists Registration Ordinance (Cap 156) but who is not qualified to be so registered by virtue of having been registered under the repealed Dentists Registration Ordinance 1940 (1 of 1940, see Cap 156, 1950 Ed.); or (Amended 34 of 1995 s. 44)
- (b) a person deemed to be a registered dentist under the Dentists Registration Ordinance (Cap 156); (Replaced 62 of 1987 s. 10)

"registered veterinary surgeon" (註冊獸醫) means a veterinary surgeon registered under the Veterinary Surgeons Registration Ordinance (Cap 529); (Added 96 of 1997 s. 32)

"ship" (船舶) includes every description of vessel used in navigation or for the carriage or storage of goods on water;

"sister" (護士長) includes any person performing the duties of a nursing sister and any person, whatever the title of the office which he holds, performing duties of the kind performed by a nursing sister;

"specified clinic" (指明診療所), in relation to a specified person, means the clinic specified in the authorization under section 22(5A) by virtue of which such person is a specified person; (Added 2 of 1992 s. 2)

"specified dangerous drug" (指明危險藥物), in relation to a specified person, means any dangerous drug specified in the authorization under section 22(5A) by virtue of which such person is a specified person; (Added 2 of 1992 s. 2)

"specified person" (指明的人) means a person authorized under section 22(5A); (Added 2 of 1992 s. 2)

"trafficking" (販運), in relation to a dangerous drug, includes importing into Hong Kong, exporting from Hong Kong, procuring, supplying or otherwise dealing in or with the dangerous drug, or possessing the dangerous drug for the purpose of trafficking, and "traffic in a dangerous drug" (販運危險藥物) shall be construed accordingly; (Amended 52 of 1992 s. 2)

"unlawful" or "unlawfully" (非法), in relation to trafficking in or manufacturing or storage of a dangerous drug, means otherwise than under and in accordance with this Ordinance or a licence issued thereunder; (Amended 46 of 1971 s. 2)

"wholesale dealer" (批發商) means a person who carries on the business of selling dangerous drugs to persons who buy to sell again, and "wholesale dealing" (批發經營) shall be construed accordingly. [cf. S.I. 1964/1811 reg. 32(1) U.K.]

- (2) For the purposes of this Ordinance, a person shall be deemed to be in possession of a dangerous drug or a pipe, equipment or apparatus, as the case may be, if it is in his actual custody or is held by some other person subject to his control or for him and on his behalf. [cf. S.I. 1964/1811 reg. 20 U.K.]
- (3) Any quantity of a dangerous drug shall be a dangerous drug for the purposes of this Ordinance notwithstanding that the quantity is insufficient to be measured or used. (Added 40 of 1982 s. 2)
- (4) The Secretary for Security may, by notice in the Gazette, specify a Convention or Protocol for the purposes of this Ordinance. (Added 89 of 1995 s. 34)

Section:	3	Calculation of percentages for purposes of First Schedule, and extended meaning of "substance" (物質)		30/06/1997
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(1) For the purposes of the First Schedule-

- (a) in the case of liquid preparations, percentages shall be calculated on the basis that a preparation containing 1 per cent of any substance means a preparation in which 1 gram of the substance if a solid, or 1 millilitre of the substance if a liquid, is contained in every 100 millilitres of the preparation, and so in proportion for any greater or less percentage; and
- (b) in the case of salts, percentages shall be calculated as in respect of the anhydrous base.

(2) The specification in paragraph 1 of Part I of the First Schedule of a substance shall, if the existence of isomers of that substance is possible within the specific chemical designation thereof, be taken to comprehend the specification of any isomer of that substance whose existence is possible as aforesaid; and any other reference in the First Schedule to a substance specified in paragraph 1 of Part I thereof shall be construed accordingly. [cf. 1965 c. 15 s. 24(2) U.K.]

Part:	II	CONTROL OF IMPORT, EXPORT, PROCURING, SUPPLY, DEALING IN OR WITH, MANUFACTURE AND POSSESSION OF DANGEROUS DRUGS		30/06/1997
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Section:	4	Trafficking in dangerous drug		30/06/1997
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(1) Save under and in accordance with this Ordinance or a licence granted by the Director hereunder, no person shall, on his own behalf or on behalf of any other person, whether or not such other person is in Hong Kong-

- (a) traffic in a dangerous drug;
- (b) offer to traffic in a dangerous drug or in a substance he believes to be a dangerous drug; or
- (c) do or offer to do an act preparatory to or for the purpose of trafficking in a dangerous drug or in a substance he believes to be a dangerous drug. (Amended 37 of 1980 s. 2)

(2) Subsection (1) shall apply whether or not the dangerous drug is in Hong Kong or is to be imported into Hong Kong or is ascertained, appropriated or in existence.

(3) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall be liable-

- (a) on conviction on indictment, to a fine of \$5000000 and to imprisonment for life; and
- (b) on summary conviction, to a fine of \$500000 and to imprisonment for 3 years. (Amended 43 of 1974 s. 2)

(4) This section does not apply to-

- (a) a preparation specified in Part II of the First Schedule; or
- (b) a dangerous drug which is in transit and-
 - (i) is in course of transit from a country from which it may lawfully be exported to another country into which it may lawfully be imported; and
 - (ii) was exported from a country which is a party to the Conventions and is accompanied by a valid export authorization or diversion certificate, as the case may be. (Replaced 7 of 1984 s. 2)

Section:	4A	Trafficking in purported dangerous drug	L.N. 362 of 1997	01/07/1997
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(1) No person shall, on his own behalf or on behalf of any other person, whether or not such other person is in Hong Kong-

- (a) traffic in any substance represented or held out by him to be a dangerous drug but which is not in fact a dangerous drug;
- (b) offer to traffic in any substance represented or held out by him to be a dangerous drug but which is not in fact a dangerous drug; or
- (c) do or offer to do an act preparatory to or for the purpose of trafficking in any substance represented or held out by him to be a dangerous drug but which is not in fact a dangerous drug.

(2) Subsection (1) shall apply whether or not the substance represented or held out to be a dangerous drug is in Hong Kong or is to be imported into Hong Kong or is ascertained, appropriated or in existence.

(3) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall be liable-

- (a) on conviction on indictment, to a fine of \$500000 and to imprisonment for 7 years; and
- (b) on summary conviction, to a fine of \$100000 and to imprisonment for 1 year.

(4) No prosecution for an offence under this section shall be instituted without the consent in writing of the Secretary for Justice, but this subsection shall not prevent the arrest, or the issue of a warrant for the arrest, of a person for any such offence, or the remand in custody or on bail of a person charged with such an offence. (Amended L.N. 362 of 1997)

(Added 37 of 1980 s. 3)

Section:	5	Dangerous drug not to be supplied except to person authorized or licensed to be in possession thereof		30/06/1997
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(1) No person shall supply or procure, or offer to supply or procure, a dangerous drug to or for any person in Hong Kong unless-

- (a) the latter person is authorized by or licensed under this Ordinance to be in possession of that dangerous drug;
- (b) the dangerous drug is to be supplied or procured in accordance with this Ordinance; and
- (c) in the case of a person licensed under this Ordinance to be in possession of the dangerous drug, the dangerous drug is to be supplied or procured in accordance with the conditions of his licence.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable-

- (a) on conviction on indictment, to a fine of \$100000 and to imprisonment for 15 years; and
- (b) on summary conviction, to a fine of \$10000 and to imprisonment for 3 years.

(3) For the purposes of this section, the administration of a dangerous drug-

- (a) by or under the direct personal supervision of, and in the presence of, a registered medical practitioner;
- (b) by or under the direct personal supervision of, and in the presence of, a registered dentist in the course of dental treatment;
- (c) by a sister for the time being in charge of a ward, theatre or other department in a prescribed hospital or in a health centre or clinic maintained by the Crown acting on the instructions of a registered medical practitioner, to a patient of that ward, theatre, department, health centre or clinic; or
- (d) which is a specified dangerous drug, by or under the direct personal supervision of, and in the presence of, a specified person in the course of medical treatment in a specified clinic, (Added 2 of 1992 s. 3)

shall be deemed not to be the supplying of the dangerous drug.

(Amended 2 of 1992 s. 3)

[cf. S.I. 1964/1811 reg. 8 U.K.]

Section:	6	Manufacture of dangerous drug		30/06/1997
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(1) Save under and in accordance with this Ordinance or under and in accordance with a licence granted by the Director thereunder and on the premises specified in such licence, no person shall-

- (a) manufacture a dangerous drug; or
- (b) do or offer to do an act preparatory to or for the purpose of manufacturing a dangerous drug.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction on indictment to a fine of \$5000000 and to imprisonment for life.

(Amended 43 of 1974 s. 3)

Section:	7	(Repealed 52 of 1992 s. 3)		30/06/1997
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Section:	8	Possession of dangerous drug otherwise than for trafficking, and consumption of dangerous drug		30/06/1997
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(1) Save under and in accordance with this Ordinance or a licence granted by the Director thereunder, no person shall-

- (a) have in his possession; or
- (b) smoke, inhale, ingest or inject,

a dangerous drug.

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall

be liable-

- (a) on conviction upon indictment to a fine of \$1000000 and, subject to section 54A, to imprisonment for 7 years; or
- (b) on summary conviction to a fine of \$100000 and, subject to section 54A, to imprisonment for 3 years. (Amended 67 of 1979 s. 2; 52 of 1992 s. 4)

Section:	9	Cultivation of and dealing in cannabis plant and opium poppy		30/06/1997
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(1) No person shall cultivate any plant of the genus cannabis or the opium poppy, but nothing in this subsection shall prevent the Government Chemist, in his capacity as such, from cultivating a plant of the genus cannabis so far as may be necessary for the exercise of his employment. (Amended 62 of 1994 s. 3)

(2) No person shall, on his own behalf or on behalf of any other person, whether or not such other person is in Hong Kong-

- (a) supply or procure or offer to supply or procure;
- (b) in any way deal in or with or offer or purport to deal in or with; or
- (c) import into or export from Hong Kong or do an act preparatory to or for the purpose of such importing or exporting,

any plant of the genus cannabis or the opium poppy, whether or not the same is in Hong Kong or is ascertained or appropriated or in existence.

(3) No person shall have in his possession any plant of the genus cannabis or the opium poppy unless the same is in transit.

(4) Section 14 shall apply to any plant of the genus cannabis and the opium poppy when the same is in transit as it applies to a dangerous drug which is in transit.

(5) Any person who contravenes any of the provisions of this section shall be guilty of an offence and shall be liable on conviction on indictment to a fine of \$100000 and to imprisonment for 15 years.

Part:	III	ISSUE OF LICENCES AND CERTIFICATES, REQUIREMENTS IN CONNECTION WITH LAWFUL IMPORT AND EXPORT OF DANGEROUS DRUGS, AND DANGEROUS DRUGS IN TRANSIT		30/06/1997
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Section:	10	Licence to import dangerous drug		30/06/1997
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(1) The Director may issue an import licence authorizing the person named therein to import into Hong Kong, within the period specified therein, such quantity of a dangerous drug as may be specified therein.

(2) When an import licence is issued to any person under subsection (1), the Director shall also issue to that person an import certificate, and where such person intends to import the dangerous drug in more than one consignment the Director shall issue to him a separate import certificate in respect of each consignment.

Section:	11	Requirements to be complied with in relation to import of dangerous drug		30/06/1997
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(1) The person to whom an import certificate is issued under section 10(2) shall send the same to the person from whom the dangerous drug to which it relates is to be obtained.

(2) A dangerous drug which is imported into Hong Kong from a country which is a party to the Conventions shall be accompanied by a valid export authorization or diversion certificate.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$5000 and to imprisonment for 6 months.

(4) In the event of a contravention of subsection (2), the person by whom the dangerous drug is imported into Hong Kong shall be guilty of an offence and shall be liable on conviction to a fine of \$5000 and to imprisonment for 6 months, unless he shows that he had taken all practicable steps to ensure that the said subsection was complied with.

Section:	12	Licence to export dangerous drug		30/06/1997
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(1) Subject to subsection (2), the Director may issue an export licence authorizing the person named therein to export from Hong Kong to the country specified therein, within the period specified therein, such quantity of a dangerous drug as may be specified therein.

(2) Save where the dangerous drug is to be exported to a country which is not a party to the Conventions, an export licence shall not be issued under subsection (1) except on production of an import certificate issued by a competent authority in the country to which the drug is to be exported, and then only to the person named in such certificate and in respect of the dangerous drug specified therein.

(3) When an export licence is issued to any person under subsection (1), the Director shall also issue to that person a copy of the licence.

Section:	13	Requirements to be complied with on export of dangerous drug		30/06/1997
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(1) The person to whom an export licence is issued under section 12(1) shall send the copy of the licence issued to him pursuant to subsection (3) of that section with the dangerous drug to which the licence relates when the same is exported from Hong Kong. (Amended 46 of 1971 s. 3)

(2) A person who intends to export from Hong Kong a dangerous drug in respect of which an export licence has been issued under section 12(1) shall-

(a) if so required, produce to the Director the dangerous drug and the export licence; (Amended 62 of 1994 s. 4)

(aa) ensure that all commercial and shipping documents relating to the dangerous drug to be exported include the name of the dangerous drug being exported, the quantity being exported and the name and address of the exporter and the importer; and (Added 62 of 1994 s. 4)

(b) produce such other evidence as the Director may require to satisfy him that the dangerous drug is being lawfully exported to the place and person specified in the export licence.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$5000 and to imprisonment for 6 months.

Section:	14	Dangerous drug in transit		30/06/1997
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(1) If a dangerous drug which is in transit-

(a) is not in course of transit from a country from which it may lawfully be exported to another country into which it may lawfully be imported; or

(b) was exported from a country which is a party to the Conventions and was not accompanied by a valid export authorization or diversion certificate, as the case may be,

the person by whom the dangerous drug was imported shall, unless, in the case of a contravention of paragraph (b), he shows that he had taken all practicable steps to ensure that the said paragraph was complied with, be guilty of an offence and shall be liable on conviction on indictment, to a fine of \$100000 and to imprisonment for 10 years and on summary conviction, to a fine of \$10000 and to imprisonment for 3 years. (Amended 46 of 1978 s. 3)

(2) Save under and in accordance with a removal licence issued by the Director under section 15, no person shall-

(a) remove a dangerous drug which is in transit from the ship, aircraft, vehicle or train in which it was imported into Hong Kong; or

(b) in any way move a dangerous drug in Hong Kong after its removal from the ship, aircraft, vehicle or train in which it was imported into Hong Kong.

(3) No person shall-

(a) cause a dangerous drug which is in transit to be subjected to any process which alters its nature; or

(b) wilfully open or break any package or other thing containing a dangerous drug which is in transit,

except on the instructions of the Director and in such manner as he may direct.

(4) Save under and in accordance with a diversion licence issued by the Director under section 16(1), no person shall cause a dangerous drug which is in transit to be diverted to any destination other than-

(a) the country specified in the export authorization or diversion certificate accompanying the dangerous drug when it was imported into Hong Kong; or

- (b) the country to which the dangerous drug was originally to be exported.
- (5) Any person who contravenes subsection (2), (3) or (4) shall be guilty of an offence and shall be liable-
 - (a) on conviction on indictment, to a fine of \$100000 and to imprisonment for 10 years; and
 - (b) on summary conviction, to a fine of \$10000 and to imprisonment for 3 years.
- (6) Subsection (1) or (3)(b) shall not apply to-
 - (a) a dangerous drug which is in transit by post; or
 - (b) a dangerous drug forming part of the medical stores of a ship or aircraft, if the quantity thereof does not exceed the quantity reasonably required for the purpose of such stores.
- (7) Subsection (2) shall not apply to a dangerous drug which is in transit by post.

Section:	15	Licence to remove dangerous drug in transit		30/06/1997
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- (1) Subject to subsection (2), the Director may issue a removal licence authorizing the person named therein to remove the dangerous drug in transit specified therein in such manner and at such time as may be specified therein.
- (2) Except where a dangerous drug which is in transit was exported from a country which is not a party to the Conventions, a removal licence shall not be issued in respect of a dangerous drug unless a valid export authorization or diversion certificate relating to that drug is produced to the Director.

Section:	16	Licence to divert dangerous drug in transit		30/06/1997
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- (1) Subject to subsection (2), the Director may issue a diversion licence authorizing the person named therein to divert the dangerous drug in transit specified therein to such country as may be specified therein.
- (2) The Director shall not issue a diversion licence under subsection (1) except-
 - (a) on production to him of a valid import certificate issued by a competent authority in the country to which the dangerous drug in transit is to be diverted; or
 - (b) if that country is not a party to the Conventions, on production to him of evidence which satisfies him that the dangerous drug in transit is to be consigned to the country to which it is to be diverted in a lawful manner and for a lawful purpose.
- (3) On the issue of a diversion licence under subsection (1), the export authorization or diversion certificate (if any) accompanying the dangerous drug when it was imported into Hong Kong shall be detained by the Director and returned to the authority by which it was issued, together with a notice of the name of the country to which the dangerous drug has been diverted.
- (4) When a diversion licence is issued to any person under subsection (1), the Director shall also issue to that person a copy of the licence.

Section:	17	Requirement to be complied with where diversion licence issued		30/06/1997
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- (1) The person to whom a diversion licence is issued under section 16(1) shall send the copy of the licence issued to him pursuant to section 16(4) with the dangerous drug to which the licence relates when the same is exported from Hong Kong.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$5000 and to imprisonment for 6 months.

Section:	18	General power of Director to issue licences		30/06/1997
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In addition to the licences and certificates which the Director is empowered to issue under any other provision in this Part, the Director may issue any licence required for the purposes of this Ordinance.

Section:	19	Issue of licence, etc. to be in discretion of Director and power to impose conditions		30/06/1997
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- (1) Save as otherwise provided, the issue of a licence or certificate under this Ordinance shall be in the discretion of the Director.

(2) On the issue of a licence or certificate under this Ordinance, the Director may impose such conditions as he thinks fit.

(3) Any person who contravenes a condition to which a licence or certificate issued by the Director under this Ordinance is subject shall be guilty of an offence and shall be liable on conviction to a fine of \$50000 and to imprisonment for 3 years.

Section:	20	Cancellation of licences, etc.	13 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 13 of 1999 s. 3

(1) The Director may at any time cancel a licence or certificate issued under this Ordinance.

(2) Any person aggrieved by the cancellation under subsection (1) of a licence or certificate may, within 14 days after the delivery to him of notice of the cancellation, appeal by way of petition to the Chief Executive.

(3) On an appeal under subsection (2), the Chief Executive may confirm, vary or reverse the decision or substitute therefor such other decision or make such other order as he thinks fit.

(Amended 13 of 1999 s. 3)

Section:	21	Form of licence and certificate		30/06/1997
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A licence or certificate under this Ordinance shall be in such form as the Director may determine.

Part:	IV	STATUTORY AUTHORITY TO PROCURE, SUPPLY AND POSSESS DANGEROUS DRUGS	L.N. 3 of 1999	15/01/1999
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Section:	22	Statutory authority for certain persons to possess, supply or manufacture dangerous drugs	L.N. 3 of 1999	15/01/1999
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(1) Subject to the provisions of this Ordinance-

- (a) a registered medical practitioner;
- (b) a registered dentist;
- (c) a registered veterinary surgeon; (Amended 96 of 1997 s. 33)
- (d) the Chief Pharmacist;
- (e) a person-
 - (i) who is a registered pharmacist or an approved person;
 - (ii) who is employed or engaged at a prescribed hospital or at a health centre or clinic maintained by the Crown; and
 - (iii) whose duties in that employment or engagement include the dispensing or supply of medicines for that, or any other such, hospital, health centre or clinic;
- (f) a sister for the time being in charge of a ward, theatre or other department in a prescribed hospital or in a health centre or clinic maintained by the Crown;
- (g) a person in charge of a laboratory used for the purposes of research or instruction and attached to a university or to an approved hospital or institution,

is hereby authorized, so far as may be necessary for the practice or exercise of his profession, function or employment, and in his capacity as such, to be in possession of and to supply a dangerous drug.

(2) Subject to the provisions of this Ordinance, the matron of a prescribed hospital is hereby authorized, so far as may be necessary for the purposes of the hospital, and in her capacity as matron thereof, to be in possession of and to supply a dangerous drug.

(3) The Government Chemist is hereby authorized, so far as may be necessary for the exercise of his employment, and in his capacity as such, to be in possession of or to synthesize a dangerous drug. (Amended 62 of 1994 s. 5)

(4) A registered medical practitioner is hereby authorized, so far as may be necessary for the practice of his profession, to manufacture any preparation and to be in possession of and procure any dangerous drug required for the manufacture of such preparation.

(5) Any registered pharmacist or approved person who is employed or engaged at a prescribed hospital is hereby authorized-

- (a) to manufacture any preparation required for the purposes of the hospital; and
- (b) to be in possession of and to procure any dangerous drug so far as it may be necessary for such manufacture:

Provided that an approved person shall be so authorized only if he is acting on the directions of the medical officer in charge of the hospital.

(5A) The Director may authorize in writing, for such period as he may specify in the authorization, a person who-

- (a) is not a registered medical practitioner; and
 - (b) practises medicine in a clinic exempted under section 8 of the Medical Clinics Ordinance (Cap 343),
- to-
- (i) supply in that clinic such of the dangerous drugs specified in the Sixth Schedule as are specified in the authorization, so far as may be necessary for the purposes of and in the course of medical treatment; and
 - (ii) be in possession in that clinic of, and to procure, such drugs specified in the authorization in not more than such quantity as the Director may specify in the authorization, so far as may be necessary for such supply. (Added 2 of 1992 s. 4)

(6) In section 24, and in this section, except subsection (3), "dangerous drug" does not include the drugs specified in any of paragraphs 8 to 11 of Part I of the First Schedule. (Amended 46 of 1978 s. 4; 80 of 1997 s. 102)

[cf. S.I. 1964/1811 reg. 10 (1) & (3) U.K.]

Section:	23	Restrictions on authority conferred by section 22, etc.		30/06/1997
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(1) Nothing in section 22 shall-

- (a) authorize a registered dentist to supply a dangerous drug unless the drug is administered by him, or under his direct supervision and in his presence, to a person receiving treatment by him;
- (b) authorize the sister in charge of a ward, theatre or other department in a prescribed hospital or in a health centre or clinic maintained by the Crown-
 - (i) to procure a dangerous drug except from a person employed or engaged in dispensing medicines at the hospital, health centre or clinic or from the matron of the hospital and except upon a written order signed by the sister; or
 - (ii) to supply a dangerous drug except in accordance with a prescription lawfully given by a registered medical practitioner in charge of any of the patients of the hospital, health centre or clinic or in accordance with directions given in the bed card or case sheet of a patient in the hospital or health centre by a registered medical practitioner in charge of that patient or in accordance with a prescription lawfully given by a registered dentist in charge of any of the patients in the hospital;
- (c) authorize a person who is a registered pharmacist or an approved person and who is employed or engaged at a prescribed hospital or at a health centre or clinic maintained by the Crown to supply a dangerous drug except-
 - (i) in accordance with a written order signed by the sister in charge of a ward, theatre or other department in the hospital, health centre or clinic; or
 - (ii) in accordance with a prescription lawfully given by a registered medical practitioner in charge of any of the patients of the hospital, health centre or clinic or in accordance with directions given in the bed card or case sheet of a patient in the hospital or health centre by a registered medical practitioner in charge of that patient or in accordance with a prescription lawfully given by a registered dentist in charge of any of the patients in the hospital;
- (d) authorize the matron of a prescribed hospital to procure a dangerous drug except on an order signed by the medical officer in charge of the hospital or to supply a dangerous drug except-
 - (i) in accordance with a written order signed by the sister in charge of a ward, theatre or other department in the hospital; or
 - (ii) in accordance with a prescription lawfully given by a registered medical practitioner or registered dentist in charge of any of the patients in the hospital or in accordance with directions given in the bed card or case sheet of a patient in the hospital by a registered medical practitioner in

charge of that patient; or

- (e) authorize a specified person to give a prescription prescribing a specified dangerous drug. (Amended 2 of 1992 s. 5)

(2) A written order signed by a sister in accordance with subsection (1)(b)(i) on which a dangerous drug is procured shall be marked, in such manner as to show that it has been complied with, by the person employed or engaged in dispensing medicines who complies with the order or by the matron, as the case may be, and shall be kept in the dispensary or by the matron, and a copy or note thereof shall be kept for at least 2 years by the sister for the time being in charge of the ward, theatre or department for use in which the dangerous drug was procured. [cf. S.I. 1964/1811 reg. 10 (5) U.K.]

(3) Whenever a dangerous drug is supplied-

- (a) on a written order signed by a sister in accordance with subsection (1)(b)(i);
- (b) on a prescription lawfully given by a registered medical practitioner or a registered dentist; or
- (c) in accordance with directions given in the bed card or case sheet of a patient,

by a person who is a registered pharmacist or an approved person and who is employed or engaged at a prescribed hospital or at a health centre or clinic maintained by the Crown or by the matron of a hospital, a record of such order or prescription shall be entered in a book kept solely for the purpose.

(4) Every dangerous drug, other than a preparation specified in Part II of the First Schedule, in the actual custody of a person authorized by section 22 to be in possession thereof shall, except when the necessities of the practice or exercise of the profession, function or employment by virtue of which that person is so authorized otherwise require, be kept in a locked receptacle which can be opened only by him or by some other person authorized by that section to be in possession of the dangerous drug. [cf. S.I. 1964/ 1811 reg. 10(4) First Schedule U.K.]

(5) All dangerous drugs which are in the possession of any person by virtue of section 22(1)(e) or (f), (2) or (5) shall be examined at least once in every month by a person appointed by the medical officer in charge of the hospital, health centre or clinic, and if it appears to the person by whom such examination is carried out-

- (a) that a dangerous drug is in the possession of such person otherwise than in accordance with this Ordinance;
- (b) that the proper quantity of any dangerous drug is not in the possession of such person; or
- (c) that any dangerous drug has been supplied to or supplied or dispensed by such person otherwise than in accordance with this Ordinance,

he shall forthwith notify the Director.

(6) Any person who-

- (a) contravenes subsection (3) or (4); or
- (b) fails to notify the Director in accordance with subsection (5),

shall be guilty of an offence and shall be liable on conviction to a fine of \$5000.

[cf. S.I.1964/1811 reg. 10(1) proviso & reg. 10(3) proviso U.K.]

Section:	24	Statutory authority for authorized sellers of poisons to manufacture preparations and retail drugs and preparations, and for listed sellers of poisons to retail certain preparations		30/06/1997
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(1) An authorized seller of poisons is hereby authorized-

- (a) in the ordinary course of his retail business to manufacture at any premises registered by him under the Pharmacy and Poisons Ordinance (Cap 138) any preparation;
- (b) subject to the provisions of this Ordinance, to carry on at any such premises the business of retailing, dispensing and compounding any dangerous drug;
- (c) to supply any dangerous drug otherwise than by way of wholesale dealing; and
- (d) to supply any dangerous drug by way of wholesale dealing to any person licensed or authorized under this Ordinance to be in possession of that dangerous drug.

(2) A person who is a listed seller of poisons under the Pharmacy and Poisons Ordinance (Cap 138) is hereby authorized to carry on, at the premises at which he is entitled to conduct the retail sale of poisons under that Ordinance, the retail sale of any preparation specified in Part IV of the First Schedule. (Replaced 46 of 1971 s. 4)

(3) Nothing in subsection (1) shall authorize the sale by retail of poisons by a person who is not qualified in that behalf under, or such sale otherwise than in accordance with, the Pharmacy and Poisons Ordinance (Cap 138) or be in derogation of the provisions of that Ordinance prohibiting, restricting or regulating the sale of poisons.

(4) Nothing in subsection (1) shall authorize an authorized seller of poisons to be in possession of any

dangerous drug except on premises registered by him under the Pharmacy and Poisons Ordinance (Cap 138).

(5) Every dangerous drug, other than a preparation specified in Part II of the First Schedule, in the actual custody of a person authorized by this section to be in possession thereof shall be kept in a locked receptacle which can be opened only by him or by some assistant of his who is a registered pharmacist and is not a person whose authority has been withdrawn under section 33.

[cf. S.I. 1964/1811 reg. 12 U.K.]

Section:	25	Statutory authority to possess dangerous drug supplied by registered medical practitioner, etc., or on prescription or by authorized seller of poisons	L.N. 3 of 1999	15/01/1999
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(1) A person to whom-

- (a) a dangerous drug is lawfully supplied by a registered medical practitioner or a registered veterinary surgeon; (Amended 96 of 1997 s. 34)
- (b) a dangerous drug is lawfully supplied on a prescription lawfully given by a registered medical practitioner or a registered dentist or a registered veterinary surgeon; (Amended 96 of 1997 s. 34)
- (c) a dangerous drug specified in Part III of the First Schedule is lawfully supplied by an authorized seller of poisons; (Amended 2 of 1992 s. 6)
- (d) a preparation specified in Part IV of the First Schedule is lawfully supplied by a person referred to in section 24(2); (Amended 2 of 1992 s. 6)
- (e) a specified dangerous drug is lawfully supplied by a specified person, (Added 2 of 1992 s. 6)

is hereby authorized to be in possession of the dangerous drug or preparation so supplied.

(2) Notwithstanding the provisions of subsection (1), a person supplied with a dangerous drug by, or on a prescription given by, a registered medical practitioner, or supplied with a specified dangerous drug by a specified person, shall be deemed not to be authorized by that subsection to be in possession of such drug if-

- (a) he was being supplied with-
 - (i) a dangerous drug by, or on a prescription given by, another registered medical practitioner; or
 - (ii) a specified dangerous drug by a specified person, and did not disclose the fact to the first-mentioned registered medical practitioner before the supply by him or on his prescription, or to the first-mentioned specified person before the supply by him, whichever is the case; or
- (b) he or any other person on his behalf made a declaration or statement for the purpose of obtaining the supply or prescription, as the case may be, and the declaration or statement was false in any particular. (Replaced 2 of 1992 s. 6)

[cf. S.I. 1964/1811 reg. 9 (2) U.K.]

Section:	26	Statutory authority to ingest or inject dangerous drug		30/06/1997
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(1) A person who-

- (a) ingests or injects into himself a dangerous drug-
 - (i) on the direction of a registered medical practitioner, for the purposes of medical treatment;
 - (ii) on the direction of a registered dentist, for the purposes of dental treatment; or
 - (iii) which is a specified dangerous drug, on the direction of a specified person, for the purposes of medical treatment; (Added 2 of 1992 s. 7)
- (b) ingests a dangerous drug specified in Part III of the First Schedule which was lawfully supplied by an authorized seller of poisons; or
- (c) ingests a preparation specified in Part IV of the First Schedule which was lawfully supplied by a person referred to in section 24(2),

shall not thereby contravene this Ordinance. (Amended 2 of 1992 s. 7)

(2) Where-

- (a) a registered medical practitioner injects a dangerous drug into another person for the purposes of medical treatment;
- (b) a registered dentist injects a dangerous drug into another person for the purposes of dental treatment; or
- (c) a specified person injects a specified dangerous drug into another person for the purposes of medical

treatment in a specified clinic,
 he shall not thereby contravene this Ordinance. (Replaced 2 of 1992 s. 7)

- (3) A person who-
- (a) injects a dangerous drug into another person, for the purposes of medical treatment, on the direction of a registered medical practitioner;
 - (b) injects a dangerous drug into another person, for the purposes of dental treatment, on the direction and in the presence of a registered dentist; or
 - (c) injects a specified dangerous drug into another person, for the purposes of medical treatment in a specified clinic, on the direction and in the presence of a specified person,

shall not thereby contravene this Ordinance. (Replaced 2 of 1992 s. 7)

Section:	27	Statutory authority to possess equipment and apparatus for injection of dangerous drugs		30/06/1997
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(1) The following persons are hereby authorized to have in their possession equipment or apparatus fit and intended for the injection of a dangerous drug (or, in the case of paragraph (d), a specified dangerous drug), so far as may be necessary for the purposes of the practice or exercise of their profession, function or employment, that is to say-

- (a) any registered medical practitioner;
- (b) any registered dentist;
- (c) any person employed or engaged in a prescribed hospital or in a health centre or clinic maintained by the Crown; and
- (d) any specified person. (Added 2 of 1992 s. 8)

(2) A person is hereby authorized to have in his possession equipment or apparatus fit and intended for the injection of-

- (a) a dangerous drug if the same is for use for the injection into himself of a dangerous drug on the direction of a registered medical practitioner for the purposes of medical treatment; or
- (b) a specified dangerous drug if the same is for use for the injection into himself of such drug on the direction of a specified person for the purposes of medical treatment. (Replaced 2 of 1992 s. 8)

(Amended 2 of 1992 s. 8)

Section:	28	Statutory authority of masters of ships to possess, supply and procure dangerous drugs	23 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 23 of 1998 s. 2

- (1) (a) The master of a ship which does not carry on board as part of her complement a registered medical practitioner, is hereby authorized-
- (i) so far as may be necessary for the purpose of compliance with the Merchant Shipping (Seafarers) Ordinance (Cap 478), to be in possession of dangerous drugs; and
 - (ii) subject to any conditions and instructions which may be applicable thereto, to supply those dangerous drugs to members of the crew.
- (b) Where a dangerous drug is supplied to a member of the crew of a ship-
- (i) an entry in the official log book; or
 - (ii) in the case of a ship which is not required under the Merchant Shipping (Seafarers) Ordinance (Cap 478) to carry an official log book, a report signed by the master of the ship, shall notwithstanding anything in this Ordinance be a sufficient record of the supply, if the entry or report specifies the dangerous drug supplied and, in the case of such a report, it is delivered as soon as practicable to the superintendent of a mercantile marine office.
- (c) Every dangerous drug in the possession of the master of a ship by virtue of this section shall, except where the necessity of supplying it to a member of the crew otherwise requires, be kept in a locked receptacle, which can be opened only by the master or by an officer authorized by the master.
- (d) In this section-
- "mercantile marine office" (商船海員管理處) means a mercantile marine office established and

maintained under the Merchant Shipping Acts# or the Office within the meaning of the Merchant Shipping (Seafarers) Ordinance (Cap 478);

"official log book" (正式航海日誌) means the official log book required to be kept under the Merchant Shipping (Seafarers) Ordinance (Cap 478). (Amended 44 of 1995 s. 143)

(2) (a) Where a ship which is registered or licensed outside Hong Kong is in Hong Kong, the master of the ship is hereby authorized to procure such quantity of dangerous drugs as may be certified by a public officer appointed for the purposes of this subsection by the Director to be necessary for the equipment of the ship until it reaches its home port. (Amended 23 of 1998 s. 2)

(b) A person who supplies a dangerous drug in accordance with a certificate given under paragraph (a) shall retain the certificate and mark it with the date on which the dangerous drug was supplied and keep it on his premises so as to be at all times available for inspection.

(3) Any person who contravenes subsection (1)(c) or (2)(b) shall be guilty of an offence and shall be liable on conviction to a fine of \$5000.

[cf. S.I. 1964/1811 reg. 13(1) & (2) U.K.]

Note:

Please also see following-

(a) in relation to the Merchant Shipping Act 1894, Part 3 of Schedule 5 to Cap 415 and s. 1 of Schedule 2 to Cap 508;

(b) in relation to the Merchant Shipping Acts 1894 to 1979, s. 117 of Cap 281, s. 103 of Cap 415 and s. 142 of Cap 478.

Section:	29	Further statutory authorization of persons authorized or licensed to manufacture or supply dangerous drug		30/06/1997
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For the purposes of this Ordinance, but subject in each case to the provisions of this Ordinance and to any condition to which a licence issued thereunder is subject-

(a) a person authorized by or licensed under this Ordinance to manufacture a dangerous drug is hereby authorized to supply that drug; and

(b) a person authorized by or licensed under this Ordinance to supply a dangerous drug is hereby authorized to have that drug in his possession and to procure that drug.

[cf. S.I. 1964/1811 reg. 29 U.K.]

Section:	30	Supply of dangerous drugs to hospitals, etc.		30/06/1997
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(1) A dangerous drug shall not be supplied for use in a prescribed hospital or in a health centre or clinic maintained by the Crown except on the written order of the registered pharmacist in charge of the dispensary attached to the hospital, health centre or clinic or of the medical officer in charge of the hospital, health centre or clinic.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$10000 and to imprisonment for 12 months.

Section:	31	Supply of dangerous drug on prescription		30/06/1997
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(1) A person shall not supply a dangerous drug on a prescription-

(a) unless the prescription complies with the provisions of this Ordinance relating to prescriptions;

(b) unless he is either acquainted with the signature of the person by whom it purports to be given and has no reason to suppose that it is not genuine or has taken reasonable steps to satisfy himself that it is genuine;

(c) before the date specified in the prescription.

(2) If a prescription prescribing a dangerous drug expressly states that it may, subject to the lapse of an interval or intervals specified in the prescription, be dispensed a second or third time, the drug thereby prescribed may, as the case may be, be supplied a second or third time after the specified interval or intervals but no more, but save as aforesaid a prescription shall not for the purposes of this Ordinance be taken as enabling the dangerous drug to be supplied more than once.

(3) A person dispensing a prescription prescribing a dangerous drug shall-

- (a) at the time of dispensing the prescription, mark thereon the date on which it is dispensed and, in the case of a prescription which may be dispensed a second or third time, the date of each occasion on which it is dispensed; and
- (b) retain and keep the prescription on the premises where it is dispensed and so as to be at all times available for inspection.

(4) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine of \$10000.

[cf. S.I. 1964/1811 reg. 15 U.K.]

Section:	32	Supply of dangerous drugs to persons on behalf of another, otherwise than on prescription		30/06/1997
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(1) Where a dangerous drug, other than a dangerous drug specified in Part III of the First Schedule, is to be lawfully supplied to any person (hereinafter referred to as "the recipient") otherwise than by, or on a prescription lawfully given by, a registered medical practitioner, the person supplying the dangerous drug (hereinafter referred to as "the supplier") shall not deliver it to a person who purports to be sent by or on behalf of the recipient unless that person either-

- (a) is authorized by or licensed under this Ordinance to be in possession of that dangerous drug; or
- (b) produces to the supplier a statement in writing signed by the recipient to the effect that he is empowered by the recipient to receive that dangerous drug on behalf of the recipient, and the supplier is reasonably satisfied that the document is a genuine document.

(2) A person to whom a dangerous drug is lawfully delivered in the circumstances mentioned in subsection (1) shall be deemed to be a person authorized to be in possession thereof, but for such period only as in the circumstances of the case is reasonably sufficient to enable delivery to the recipient to be effected.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$10000.

[cf. S.I. 1964/1811 reg. 21 U.K.]

Section:	33	Withdrawal of authority conferred by section 22	13 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 13 of 1999 s. 3

- (1) Whenever the Director is of opinion that it is in the public interest to do so, he may by order-
 - (a) withdraw absolutely from any person the authorization conferred by section 22; or
 - (b) withdraw from any person the authorization conferred by section 22 and suspend such withdrawal subject to such conditions as he thinks fit.

(2) The withdrawal under subsection (1) of the authorization conferred on any person by section 22 may extend to all dangerous drugs or to such dangerous drugs or class of dangerous drugs as the Director may specify and may be permanent or for such period as the Director may specify.

(3) Any person aggrieved by an order under subsection (1) may, within 14 days after the delivery to him of a copy of the order, appeal by way of petition to the Chief Executive.

(4) An order under subsection (1) shall take effect on publication in the Gazette, and no such order shall be published in the Gazette-

- (a) until the expiry of a period of 14 days after a copy thereof, and a statement in writing of the grounds on which the order was made and that the same is to be published in the Gazette, have been delivered to the person in respect of whom it was made; or
- (b) where there is an appeal under subsection (3), unless the order is confirmed by the Chief Executive or the appeal is abandoned.

(5) Where on an appeal under subsection (3) the order under subsection (1) is varied or some other decision substituted therefor or some other order made, notice thereof shall be published in the Gazette, and the decision of the Chief Executive on the appeal shall not take effect until such notice is so published.

- (6) (a) Where the authorization conferred on any person by section 22 has been withdrawn absolutely, the Director may, upon application, by order-
 - (i) restore the authorization; or

- (ii) suspend the withdrawal subject to such conditions as he thinks fit.
- (b) Where the authorization conferred on any person by section 22 has been withdrawn and the withdrawal suspended, the Director may, upon application, by order restore the authorization.
- (c) Where the authorization conferred by section 22 has been withdrawn permanently or for a specified period exceeding one year, no application may be made under this subsection within 6 months after the withdrawal took effect.

(7) Any person aggrieved by a refusal of the Director to make an order under subsection (6) may appeal by way of petition to the Chief Executive.

(8) Notice of an order under subsection (6), and of a decision of the Chief Executive on an appeal under subsection (7) restoring to any person the authorization conferred by section 22 or suspending the withdrawal of such an authorization, shall be published in the Gazette.

(9) On an appeal under subsection (3) or (7), the Chief Executive may confirm, vary or reverse the decision or substitute therefor such other decision or make such other order as he thinks fit.

(10) Where an authorization is conferred by section 22(5A) for a specified period, the expiry of such period shall not be regarded as withdrawal of the authorization for the purposes of making any appeal under this section. (Added 2 of 1992 s. 9)

(Amended 13 of 1999 s. 3)

Section:	34	Power to prohibit prescribing of dangerous drug	L.N. 3 of 1999	15/01/1999
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Where the authorization conferred by section 22 is withdrawn under section 33 from a registered medical practitioner, a registered dentist or a registered veterinary surgeon, the Director may, by notice in the Gazette, direct that it shall not be lawful for that person to give prescriptions prescribing a dangerous drug.

(Amended 96 of 1997 s. 35)
[cf. S.I. 1964/1811 reg. 11 U.K.]

Section:	34A	Amendment of Sixth Schedule		30/06/1997
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The Director may, by notice in the Gazette, amend the Sixth Schedule where he is of the opinion that it is in the public interest to do so.

(Added 2 of 1992 s. 10)

Part:	V	DIVANS, EQUIPMENT FOR SMOKING, INJECTING, ETC. DANGEROUS DRUG, AND PREMISES USED FOR UNLAWFUL TRAFFICKING IN OR MANUFACTURE OF DANGEROUS DRUG		30/06/1997
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Section:	35	Divan keeping		30/06/1997
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- (1) No person shall open, keep, manage or assist in the management of a divan where-
 - (a) a dangerous drug is sold in the divan to be smoked, inhaled, ingested or injected therein;
 - (b) a price or its equivalent is charged for the smoking, inhalation, ingestion or injection of a dangerous drug therein; or
 - (c) any benefit or advantage whatever, direct or indirect, is derived by such person in consequence of the smoking, inhalation, ingestion or injection of a dangerous drug therein.
- (2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall be liable-
 - (a) on conviction on indictment, to a fine of \$5000000 and to imprisonment for 15 years; and
 - (b) on summary conviction, to a fine of \$500000 and to imprisonment for 3 years. (Amended 43 of 1974 s. 5)

Section:	36	Possession of pipes, equipment, etc.		30/06/1997
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(1) Save under and in accordance with this Ordinance, no person shall have in his possession any pipe, equipment or apparatus fit and intended for the smoking, inhalation, ingestion or injection of a dangerous drug.

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$10000 and, subject to section 54A, to imprisonment for 3 years. (Amended 67 of 1979 s. 3)

Section:	37	Responsibility of owners, tenants, etc.		30/06/1997
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(1) No person shall-

- (a) being the owner, tenant, occupier or person in charge of any place or premises, permit or suffer such place or premises or any part thereof to be opened, kept or used as a divan or for unlawful trafficking in or the unlawful manufacturing or storage of a dangerous drug; or
- (b) let or agree to let, whether as principal or agent, any place or premises with the knowledge that such place or premises or any part thereof is to be opened, kept or used as a divan or for unlawful trafficking in or the unlawful manufacturing or storage of a dangerous drug. (Amended 46 of 1971 s. 5)

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall be liable-

- (a) on conviction on indictment, to a fine of \$5000000 and to imprisonment for 15 years; and
- (b) on summary conviction, to a fine of \$500000 and to imprisonment for 3 years. (Amended 43 of 1974 s. 6)

Section:	38	Premises used for unlawful trafficking in or manufacturing, etc. dangerous drug		30/06/1997
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(1) Where it is proved to the satisfaction of a court that an offence under section 4, 6, 35 or 37 has been committed in or on or in respect of any place or premises or any part thereof, the court may order that a notice of the fact shall be served either personally or by registered post on-

- (a) the owner or any tenant of the place or premises or the part thereof; or
- (b) if such owner or tenant is absent or under disability, on his agent; or
- (c) if such owner or tenant is a company, on the secretary or manager thereof.

(2) After service of a notice under subsection (1), a court may, on application-

- (a) by the person on whom the notice was served; or
- (b) in the case of a company, by or on behalf of the company,

make an order (which shall be recognized and given effect to in any proceeding in any court) determining any tenancy of such place or premises or of any part of the place or premises as from the date of such order, and thereupon such tenancy shall cease and determine for all purposes and any tenant under the tenancy so determined and any occupier of such place or premises or such part thereof may thereafter be treated as a trespasser.

(3) (a) An order under subsection (2) shall be sufficient authority to any police officer to enter (by force if necessary) into the place or premises specified in the order and-

- (i) evict therefrom any person who may under subsection (2) be treated as a trespasser; and
- (ii) remove therefrom anything belonging to or in the possession of any such person.

(b) The powers given by this subsection shall be in addition to and not in derogation of any powers conferred by or under any other law.

(4) If, within 12 months after service of a notice under subsection (1), an offence under section 4, 6 or 35 is proved to have been committed by the same or any other person in or on or in respect of such place or premises or such part thereof, the person on whom the notice was served, or the company where the notice was served on the secretary or manager thereof, shall be guilty of an offence and shall be liable on conviction to a fine of \$500000 unless such person or company proves that he or it neither knew nor had reasonable means of knowing that such offence had been committed. (Amended 43 of 1974 s. 7; 52 of 1992 s. 5)

(5) A document purporting to be a copy of the records or part of the records of the Land Registry and purporting to be certified by or on behalf of the Land Registrar shall be admitted in evidence in any proceedings under this section on its production by the prosecution without further proof, and-

- (a) until the contrary is proved, it shall be presumed-

- (i) that the document is a true copy of the records or part of the records of the Land Registry; and
 - (ii) that the document is certified by or on behalf of the Land Registrar; and (Amended 8 of 1993 ss. 2 & 3)
- (b) such document shall be prima facie evidence of all matters contained therein.
- (6) In this section, "tenant" (租客) includes any sub-tenant and "tenancy" (租賃) includes any sub-tenancy.

Part:	VA	SEIZURE, DETENTION AND FORFEITURE OF SHIPS		30/06/1997
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(PART VA added 48 of 1982 s. 2)

Section:	38A	Interpretation		30/06/1997
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In this Part-

"excessive quantity" (過量) means a quantity of a dangerous drug specified in the second column of the Fifth Schedule, including the quantity of any other substance contained with the dangerous drug in a preparation, mixture, extract or other material, being not less than the quantity specified in the third column of the Fifth Schedule;

"master" (船長) in relation to a ship means the person (except a pilot within the meaning of the Pilotage Ordinance (Cap 84)) having for the time being command or charge of the ship; and

"owner" (船東) in relation to a ship means-

- (a) the person registered or licensed as the owner of the ship or, in the absence of registration or licensing, the person owning the ship; and
- (b) a demise charterer of the ship.

Section:	38B	Commissioner of Customs and Excise may seize and detain ship	L.N. 362 of 1997	01/07/1997
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Where the Commissioner of Customs and Excise has reasonable cause to suspect- (Amended 40 of 1985 s. 9)

- (a) that an excessive quantity of dangerous drugs has been found on a ship exceeding 250 gross tons; and
- (b) that an excessive quantity of dangerous drugs was found on that ship within 18 months prior to the finding specified in paragraph (a),

he may, with the written consent of the Secretary for Justice, seize and detain the ship for 48 hours.

(Amended L.N. 362 of 1997)

Section:	38C	Magistrate may order arrest and detention of ship	L.N. 362 of 1997; 25 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

(1) Whenever, on an application made by the Commissioner of Customs and Excise with the written consent of the Secretary for Justice, it appears to a magistrate that there is reasonable cause to suspect- (Amended 40 of 1985 s. 9; L.N. 362 of 1997)

- (a) that an excessive quantity of dangerous drugs has been found on a ship exceeding 250 gross tons; and
- (b) that an excessive quantity of dangerous drugs was found on that ship within 18 months prior to the finding specified in paragraph (a),

he shall order-

- (i) in a case where the ship has already been seized and detained under section 38B, that it continue to be detained; and
- (ii) in any other case, that it be arrested and detained.

(2) Where an order for detention or arrest and detention is made by a magistrate under subsection (1), he shall further order that the proceedings be transferred to the Court of First Instance. (Amended 25 of 1998 s. 2)

Section:	38D	Registrar to order summons to be served on ship	25 of 1998 s. 2	01/07/1997
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Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

(1) On proceedings being transferred to the Court of First Instance under section 38C(2), the Registrar of the High Court shall order that a summons be served on the ship containing details of the time and place at which the Court of First Instance will hear an application by the Commissioner of Customs and Excise for an order for the payment of a financial penalty under section 38F. (Amended 40 of 1985 s. 9; 25 of 1998 s. 2)

(2) A summons ordered to be served under subsection (1) shall be served on the ship by affixing it to the mast or other prominent part of the ship.

Section:	38E	Bail	L.N. 362 of 1997; 25 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

(1) At any time after an order has been made under section 38C(1) for the detention or arrest and detention of a ship and before the application of the Commissioner of Customs and Excise is determined under section 38F(1), a judge may, on application made by the owner or master and served on the Secretary for Justice and on being satisfied that the requirements of subsections (2) and (3) have been complied with, admit the ship to bail and order its release. (Amended 40 of 1985 s. 9)

(2) Bail on behalf of a ship under subsection (1) shall be in an amount not less than \$5000000 and may be-

- (a) a sum of money deposited with the Court of First Instance; or
- (b) subject to subsection (3), a bond.

(3) Where bail on behalf of a ship is a bond, the bond shall be-

- (a) in such form as the Court of First Instance may determine;
- (b) entered into by a surety or sureties acceptable to the Secretary for Justice; and
- (c) supported by an affidavit by each surety stating that he is able to pay the sum for which the bond is given.

(Amended L.N. 362 of 1997; 25 of 1998 s. 2)

Section:	38F	Imposition of penalties in respect of ships carrying excessive quantities of drugs and consequential proceedings	25 of 1998; 13 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 25 of 1998 s. 2; 13 of 1999 s. 3

(1) Where, on an application being made by the Commissioner of Customs and Excise and where a summons has been served under section 38D(2), the Court of First Instance is satisfied beyond reasonable doubt- (Amended 40 of 1985 s. 9)

- (a) that an excessive quantity of dangerous drugs has been found on a ship exceeding 250 gross tons; and
- (b) that an excessive quantity of dangerous drugs was found on that ship within 18 months prior to the finding specified in paragraph (a),

it may order the owner to pay a financial penalty not exceeding \$5000000.

(2) Where a ship has been admitted to bail under section 38E, the Court of First Instance may order that any financial penalty imposed under subsection (1) be recovered by estreatment of the bail or such part thereof as may be necessary and the payment thereof to the Government. (Amended 13 of 1999 s. 3)

(3) Where a ship has not been admitted to bail under section 38E, the Court of First Instance may order that the ship continue to be detained until any financial penalty imposed under subsection (1) is paid or arrangements satisfactory to the Court of First Instance are made for the payment thereof.

(4) Where a ship has not been admitted to bail under section 38E and any financial penalty imposed under subsection (1) has not been paid and no satisfactory arrangements for the payment thereof have been made, the Court of First Instance may order that the ship be forfeited to the Government. (Amended 13 of 1999 s. 3)

- (5) The Court of First Instance may impose a financial penalty under subsection (1) whether or not-
- (a) the first of the occasions was before the coming into operation of this Part; or
 - (b) any person is convicted of an offence in respect of the excessive quantity of a dangerous drug; or
 - (c) the master or owner knew of the carriage.

(6) The Court of First Instance shall not impose a financial penalty under subsection (1) where it is proved, in respect of the second of the occasions, that the master and the owner for the time being had each taken all reasonable and practicable steps to prevent the ship from being used to carry a dangerous drug.

(Amended 25 of 1998 s. 2)

Section:	38G	Certificate as to finding of dangerous drugs etc.		30/06/1997
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A certificate purporting to be signed by the Commissioner of Customs and Excise and certifying-

- (a) the finding of a dangerous drug on any ship;
- (b) the date of the finding;
- (c) the amount and type of the drug;
- (d) the name or other details of identification of the ship; or
- (e) any of the above,

shall be admissible in evidence in any proceedings under this Part before any court on its production without further proof and, until the contrary is proved, the court shall presume-

- (i) that the document is signed by the Commissioner of Customs and Excise; and
- (ii) that the facts certified therein are true.

(Amended 40 of 1985 s. 9)

Section:	38H	Right of appeal		30/06/1997
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(1) Where an order has been made under section 38F, the owner of the ship in respect of which the order was made may appeal to the Court of Appeal within 21 days of the making of the order.

(2) The appeal may be-

- (a) on any ground which involves a question of law alone; and
- (b) with the leave of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the Court of Appeal to be a sufficient ground of appeal,

but if the judge who made the order under section 38F grants a certificate that the case is fit for appeal on a ground which involves a question of fact, or a question of mixed law and fact, an appeal lies under this section without the leave of the Court of Appeal.

Section:	38I	Grounds for allowing appeal		30/06/1997
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The Court of Appeal shall allow an appeal against an order made under section 38F if it thinks that the order should be set aside on the ground of a wrong decision on any question of law or of fact or of mixed law and fact: (Amended L.N. 345 of 1982)

Provided that the Court of Appeal may, notwithstanding that it is of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no miscarriage of justice has actually occurred.

Section:	38J	Procedure on appeal		30/06/1997
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Subject to sections 38H and 38I, the procedure on an appeal shall with all necessary modifications be that applicable to an appeal against conviction for an offence on indictment under section 82 of the Criminal Procedure Ordinance (Cap 221), and an appeal against sentence under section 83G of the Criminal Procedure Ordinance (Cap 221).

Section:	38K	Amendment of Fifth Schedule	13 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 13 of 1999 s. 3

- (1) The Chief Executive in Council may by order amend the Fifth Schedule. (Amended 13 of 1999 s. 3)
- (2) Any question as to what constitutes an excessive quantity of dangerous drugs shall be determined by reference to the quantity specified in the Fifth Schedule at the time of the finding and, in the case of a finding before the date on which this Part came into operation, to the quantity so specified on that date.
(effective from 15 January 1983)

Part:	VB	OFFENCES AT SEA	L.N. 280 of 1998	14/08/1998
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(Part VB added 63 of 1994)

Section:	38L	Offences on Hong Kong ships	L.N. 280 of 1998	14/08/1998
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Anything which would constitute an offence under this Ordinance if done on land in any part of Hong Kong shall constitute that offence if done on a Hong Kong ship.

(Added 63 of 1994 s. 2)

Section:	38M	Ships used for illicit traffic	L.N. 280 of 1998	14/08/1998
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- (1) This section applies to a Hong Kong ship, a ship registered in a jurisdiction other than Hong Kong which is a party to the Vienna Convention (a "Convention state") and a ship not registered in any jurisdiction.
- (2) A person is guilty of an offence if on a ship to which this section applies, wherever it may be, he-
 - (a) has a dangerous drug in his possession;
 - (b) is in any way knowingly concerned in the carrying or concealing of a dangerous drug on the ship; or
 - (c) manufactures a dangerous drug or does or offers to do an act preparatory to or for the purpose of manufacturing a dangerous drug,
 knowing or having reasonable grounds to believe that the drug is intended to be imported or has been exported contrary to this Ordinance or the law of any jurisdiction outside Hong Kong.
- (3) A person who is guilty of an offence-
 - (a) under subsection (2)(a) shall be liable-
 - (i) on conviction on indictment to a fine of \$1000000 and to imprisonment for 7 years; or
 - (ii) on summary conviction to a fine of \$100000 and to imprisonment for 3 years;
 - (b) under subsection (2)(b) shall be liable-
 - (i) on conviction on indictment to a fine of \$5000000 and to imprisonment for life; or
 - (ii) on summary conviction to a fine of \$500000 and to imprisonment for 3 years; and
 - (c) under subsection (2)(c) shall be liable on conviction on indictment to a fine of \$5000000 and to imprisonment for life.

(Added 63 of 1994 s. 2)

Section:	38N	Enforcement powers	L.N. 280 of 1998	14/08/1998
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- (1) The powers conferred on a member of the Customs and Excise Service by this Ordinance shall be exercisable in relation to any ship to which section 38L or 38M applies for the purpose of detecting and the taking of appropriate action in respect of the offences mentioned in those sections.
- (2) Those powers shall not be exercised outside the waters of Hong Kong in relation to a ship registered in a Convention state except with the authority of the Secretary for Justice and he shall not give his authority unless that state has in relation to that ship-
 - (a) requested the assistance of Hong Kong for the purpose mentioned in subsection (1); or
 - (b) authorized Hong Kong to act for that purpose.
- (3) In giving his authority pursuant to a request or authorization from a Convention state the Secretary for

Justice shall impose such conditions or limitations on the exercise of the powers as may be necessary to give effect to any conditions or limitations imposed by that state.

(4) The Secretary for Justice may, either of his own motion or in response to a request from a Convention state, authorize a Convention state to exercise, in relation to a Hong Kong ship, powers corresponding to those conferred on a member of the Customs and Excise Service by this Ordinance but subject to such conditions or limitations, if any, as the Secretary for Justice may impose.

(5) Subsection (4) is without prejudice to any agreement made or which may be made on behalf of Hong Kong whereby Hong Kong undertakes not to object to the exercise by any jurisdiction in relation to a Hong Kong ship of powers corresponding to those conferred on a member of the Customs and Excise Service by this Ordinance.

(6) The powers conferred on a member of the Customs and Excise Service by this Ordinance shall not be exercised in the territorial waters of any jurisdiction other than Hong Kong without the authority of the Secretary for Justice and he shall not give his authority unless that other jurisdiction has consented to the exercise of those powers.

(Added 63 of 1994 s. 2. Amended L.N. 362 of 1997)

Section:	38O	Jurisdiction and prosecutions	L.N. 280 of 1998	14/08/1998
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(1) Proceedings under this Part in respect of an offence on a ship may be taken, and the offence may for all incidental purposes be treated as having been committed, in Hong Kong.

(2) No such proceedings shall be instituted except by or with the consent of the Secretary for Justice.

(3) Notwithstanding subsection (2) a person may be charged with an offence under this Part and may be arrested therefor, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail notwithstanding that the consent of the Secretary for Justice to the institution of a prosecution for the offence has not been obtained, but no such person shall be remanded in custody or on bail for longer than 3 days on such charge unless in the meantime the consent of the Secretary for Justice aforesaid has been obtained.

(4) When a person is brought before a magistrate before the Secretary for Justice has consented to the prosecution, the charge shall be explained to the person accused but he shall not be called upon to plead and the provision of the law for the time being in force relating to criminal procedure shall be modified accordingly.

(Added 63 of 1994 s. 2. Amended L.N. 362 of 1997)

Section:	38P	Interpretation of Part VB	L.N. 280 of 1998	14/08/1998
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(1) In this Part-

"Convention state" (公約國) has the meaning given in section 38M;

"Hong Kong ship" (香港船舶) means a ship registered or licensed in Hong Kong;

"ship" (船舶) includes any vessel used in navigation and includes a hovercraft;

"the Vienna Convention" (維也納公約) means the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which was signed at Vienna on 20 December 1988.

(2) If in any proceedings under this Part any question arises whether any jurisdiction is a state or is a party to the Vienna Convention, a certificate issued by or under the authority of the Secretary for Justice shall be conclusive evidence on that question. (Amended L.N. 362 of 1997)

Part:	VI	CONSPIRACY TO COMMIT OFFENCE UNDER ORDINANCE, FALSE STATEMENTS, AIDING, ETC. OFFENCE UNDER CORRESPONDING LAW, JOINT TRIAL IN CERTAIN CASES AND CONVICTION OF OTHER OFFENCES		30/06/1997
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Section:	39	Conspiracy		30/06/1997
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Any person convicted of conspiracy to commit an offence under this Ordinance shall be liable to the penalty prescribed for that offence and any special rules of evidence which apply with respect to the proof of that offence

under this Ordinance shall apply in like manner to the proof of conspiracy to commit such offence.

Section:	40	False statements, and aiding, abetting, etc. offence under corresponding law		30/06/1997
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(1) Any person who-

- (a) for the purpose of obtaining, whether for himself or for any other person, the issue or renewal of a licence or certificate under this Ordinance, makes any declaration or statement which is false in a material particular;
- (b) knowingly utters, produces or makes use of any such declaration or statement or a document containing any such declaration or statement; or
- (c) aids, abets, counsels or procures the commission in a place outside Hong Kong of an offence punishable under a corresponding law in force in that place, or does an act preparatory to, or in furtherance of, an act which if committed in Hong Kong would constitute an offence under section 4 or 6,

shall be guilty of an offence.

(2) Any person who is guilty of an offence under subsection (1)(a) or (b) shall be liable on conviction to a fine of \$10000 and to imprisonment for 3 years.

(3) Any person who is guilty of an offence under subsection (1)(c) shall be liable-

- (a) on conviction on indictment, to a fine of \$100000 and to imprisonment for 15 years; and
- (b) on summary conviction, to a fine of \$10000 and to imprisonment for 3 years.

[cf. 1965 c. 15 s. 13 U.K.]

Section:	41	Joint trial of offences in certain cases		30/06/1997
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Notwithstanding anything in the Magistrates Ordinance (Cap 227) or any other law, where it is alleged that 2 or more persons have committed distinct offences under section 4, 8, 35 or 36 in the same place and at about the same time, the charges for such offence against such persons may be tried together.

Section:	42	Conviction of offence other than that charged		30/06/1997
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(1) If on the trial of a charge for an offence specified in the second column of the Third Schedule the defendant is acquitted, but it is proved that the defendant is guilty of any offence specified opposite thereto in the third column of that Schedule or of being a party to any such offence, he shall be convicted of such offence or of being a party to any such offence and shall be liable to be punished accordingly.

(2) The references in the Third Schedule to numbered sections and subsections shall be construed to include every offence under the section or subsection so numbered in this Ordinance.

(3) Nothing in this section shall exclude the application to any offence of any other law authorizing a person to be found guilty of an offence other than that with which he is charged.

Part:	VII	EVIDENCE		30/06/1997
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Section:	43	Certificate of corresponding law		30/06/1997
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A document purporting to be issued by or on behalf of the government of a country and purporting to state the terms of a corresponding law in force in that country shall be admitted in evidence, in proceedings for an offence under this Ordinance before any court, on its production by the prosecution without further proof, and such document shall be conclusive evidence-

- (a) that it is issued by or on behalf of the government of that country;
- (b) that the terms of such law are as stated in the document; and
- (c) that any facts stated in the document to constitute an offence under such law do constitute such offence.

Section:	44	(Repealed 31 of 1969 s. 7)		30/06/1997
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Section:	45	Presumption concerning manufacture of dangerous drug		30/06/1997
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Any person who is proved to have been manufacturing or doing an act preparatory to the manufacture of a dangerous drug shall, until the contrary is proved, be presumed to have known the nature of such drug.

(Replaced 52 of 1992 s. 6)

Section:	46	(Repealed 52 of 1992 s. 7)		30/06/1997
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Section:	47	Presumption of possession and knowledge of dangerous drug		30/06/1997
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(1) Any person who is proved to have had in his physical possession-

(a) anything containing or supporting a dangerous drug;

(b) the keys of any baggage, briefcase, box, case, cupboard, drawer, safe-deposit box, safe or other similar container containing a dangerous drug,

(c) (Repealed 62 of 1994 s. 6)

shall, until the contrary is proved, be presumed to have had such drug in his possession.

(2) Any person who is proved or presumed to have had a dangerous drug in his possession shall, until the contrary is proved, be presumed to have known the nature of such drug.

(3) The presumptions provided for in this section shall not be rebutted by proof that the defendant never had physical possession of the dangerous drug.

(Replaced 52 of 1992 s. 8)

Section:	48	(Repealed 52 of 1992 s. 9)		30/06/1997
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Section:	49	(Repealed 5 of 1971 s. 13)		30/06/1997
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Part:	VIIA	CONFIDENTIALITY OF RECORDS	L.N. 131 of 2004	01/07/2004
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(Part VIIA added 65 of 1981 s. 2)

Section:	49A	Interpretation	L.N. 131 of 2004	01/07/2004
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In this Part, unless the context otherwise requires-

"Commissioner" (專員) means the Commissioner for Narcotics;

"confidential information" (機密資料) means information which is recorded by the Registry or a reporting agency in respect of any person and which relates to any one or more of the following-

(a) the use, or alleged use, by that person of a dangerous drug;

(b) the conviction of that person for an offence under this Ordinance;

(c) the care, treatment or rehabilitation of that person by reason of his use of a dangerous drug;

"drug abuser" (濫用藥物者) means a person who is the subject of any confidential information;

"employee" (僱員)-

(a) in relation to the Registry, means any public officer employed in-

(i) the Narcotics Division of the Security Bureau of the Government; or (Amended L.N. 362 of 1997)

(ii) the Office of the Government Chief Information Officer of the Government; and (Amended 80 of 1997 s. 102; L.N. 131 of 2004)

(b) in relation to a reporting agency, means any person employed in the agency, whether full-time or part-

time and whether paid or unpaid, in-

- (i) the care, treatment or rehabilitation of persons who use, or have used, dangerous drugs;
 - (ii) the preparation, maintenance or analysis of records of confidential information,
- and also means any person who is being trained by the agency in any such matter;

"Registry" (檔案室) means the Central Registry of Drug Abuse referred to in section 49B;

"reporting agency" (呈報機構) means any body or organization specified in the Fourth Schedule;

"reporting agency director" (呈報機構負責人)-

- (a) in relation to the Department of Health of the Government, means the Director of Health and any person to whom he has delegated the supervision of any records of confidential information which are kept by that Department; (Amended L.N. 76 of 1989)
- (b) in relation to the Social Welfare Department of the Government, means the Director of Social Welfare and any person to whom he has delegated the supervision of any records of confidential information which are kept by that Department; and
- (c) in relation to any other reporting agency, means the person who is for the time being in charge of the administration of that agency and any person to whom he has delegated the supervision of any records of confidential information which are kept by that agency.

Section:	49B	Central Registry of Drug Abuse	L.N. 362 of 1997	01/07/1997
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(1) There shall be a Central Registry of Drug Abuse, the purposes of which shall include-

- (a) the collection, collating and analysis of confidential information supplied by reporting agencies and of information on drug abuse and its treatment supplied by other sources; and
- (b) the publication of statistical information on drug abuse and on various forms of treatment of drug abuse.

(2) The Central Registry of Drug Addicts existing at the commencement of the Dangerous Drugs (Amendment) Ordinance 1981 (65 of 1981) and maintained by the Narcotics Division of the Security Bureau of the Government shall be the Central Registry of Drug Abuse for the purposes of subsection (1). (Amended L.N. 362 of 1997)

Section:	49C	Immunity of records from search and from production in court	L.N. 362 of 1997	01/07/1997
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(1) No search warrant shall be issued, or if issued be executed, in respect of any record of confidential information which is kept by the Registry or by a reporting agency.

(2) Save as provided in this Part, no power, or right, of search conferred by any law shall authorize the search of records of confidential information which are kept by the Registry or by a reporting agency.

(3) No process shall lie in any proceedings to compel production of any record of confidential information which is kept by the Registry or by a reporting agency, and no such record, nor any information obtained therefrom, shall be admissible in evidence, save-

- (a) in proceedings for an offence under this Part; or
- (b) where the record is the subject of an order of the Secretary for Justice which is in force under section 49G, (Amended L.N. 362 of 1997)

but nothing in this subsection shall render admissible anything which is otherwise inadmissible.

Section:	49D	Prohibition against disclosure of records	L.N. 20 of 2002	01/04/2002
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(1) Subject to subsection (2), any person who-

- (a) discloses any record of confidential information which is kept by the Registry or a reporting agency, or supplies to any person information obtained from any such record; or
- (b) permits access to any such record,

commits an offence and is liable to a fine of \$5000 and to imprisonment for 6 months.

(2) Subsection (1) shall not apply where the disclosure is made, or access is permitted-

- (a) in accordance with an authorization given under section 49E;

- (b) in accordance with an authorization given under section 49F;
- (c) in accordance with an order of the Secretary for Justice made under section 49G; (Amended L.N. 362 of 1997)
- (d) to the Commissioner or a reporting agency director, or to an employee of the Registry or of a reporting agency, for the purpose of treating a drug abuser for his drug addiction or of assisting him in his rehabilitation;
- (e) to a medical practitioner for the purpose of providing medical treatment for any person, or to a coroner or a medical practitioner for the purpose of inquiring into the cause of death of a drug abuser;
- (f) in proceedings for an offence under this Part; (Amended 10 of 2001 s. 32)
- (g) to the Director of Social Welfare or any public officer under section 18 of the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap 566). (Added 10 of 2001 s. 32)

Section:	49E	Disclosure of information for research purposes	30/06/1997
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(1) Where the Commissioner is satisfied, upon an application being made to him in writing, that disclosure of confidential information which is recorded by the Registry-

- (a) is sought by the applicant in the interests of bona fide research; and
- (b) can be made in a manner that does not disclose the identity of any drug abuser,

he may if he thinks fit authorize any employee of the Registry to disclose to the applicant confidential information in that manner.

(2) Where a reporting agency director is satisfied, upon an application being made to him in writing, that disclosure of confidential information which is recorded by the reporting agency of which he is director-

- (a) is sought by the applicant in the interests of bona fide research; and
- (b) can be made in a manner that does not disclose the identity of any drug abuser,

he may if he thinks fit authorize any employee of the reporting agency to disclose to the applicant confidential information in that manner.

(3) An authorization issued under subsection (1) or (2)-

- (a) shall be in writing;
- (b) shall identify the information, or the nature of the information, to which it applies;
- (c) shall state the manner in which the authorized disclosure is to be made so as to prevent the identity of any drug abuser from being disclosed;
- (d) may be revoked at any time.

Section:	49F	Access to records with consent of addict	30/06/1997
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(1) Where a drug abuser gives his consent for confidential information which concerns him to be disclosed to a person, or for a purpose, specified in such consent-

- (a) the Commissioner may, if he thinks fit, authorize such disclosure from the records of the Registry; and
- (b) a reporting agency director may, if he thinks fit, authorize such disclosure from the records of his reporting agency.

(2) An authorization given under subsection (1) shall be in writing and shall state-

- (a) whether the disclosure is to be made from the records of the Registry or of a reporting agency, and, in the latter case, the name of that agency;
- (b) where the disclosure is to be made-
 - (i) from the Registry, that the authorization is given by the Commissioner;
 - (ii) by a reporting agency, the name of the reporting agency director who gives the authorization;
- (c) the name of the person to whom the disclosure is to be made;
- (d) the extent of the confidential information which may be disclosed;
- (e) the purpose of the disclosure; and
- (f) that the authorization may be revoked at any time, and the circumstances in which, or date when, it will expire if not revoked.

(3) An authorization given by the Commissioner or any reporting agency director under subsection (1) may be revoked at any time.

- (4) A drug abuser's consent for the purposes of subsection (1) shall be in writing and-
- (a) be given-
 - (i) in the case of a drug abuser who is unmarried and under the age of 19 years, both by him and by a parent or other person standing in loco parentis to him;
 - (ii) in the case of a drug abuser who is by reason of mental disability unable to give the consent himself, by a person having lawful authority over his affairs;
 - (b) be read over to the person giving consent by or in the presence of the person who authorizes disclosure under subsection (1); and
 - (c) bear the signature, fingerprint or mark of the person giving consent.

Section:	49G	Access to records by order of Secretary for Justice	L.N. 362 of 1997	01/07/1997
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(1) Where in connection with the investigation or prosecution of a crime the Secretary for Justice is of the opinion that, because of the gravity of the crime or for any other reason, the public interest requires that any confidential information should be disclosed he may, after considering any representations which may be made by-

- (a) the Commissioner; and
- (b) the reporting agency director of the reporting agency (if any) which supplied the confidential information to the Registry or from whose records the disclosure is to be made,

make an order in accordance with this section.

(2) The power conferred upon the Secretary for Justice by subsection (1) shall be exercised by the Secretary for Justice personally.

(3) An order under subsection (1) shall be in writing and may direct-

- (a) the Commissioner and any reporting agency director who has been given the opportunity to make representations to the Secretary for Justice under subsection (1); and
- (b) any employee of the Registry or, as the case may be, of a reporting agency,

to disclose in such manner, to such person, and at such time and place as the order specifies, such records as are specified in the order.

(4) An order under subsection (1) shall be served personally on every person who is directed by it to disclose any record.

(5) Any person who fails without reasonable excuse to comply with an order under subsection (1) commits an offence and is liable to a fine of \$5000 and to imprisonment for 6 months.

(Amended L.N. 362 of 1997)

Section:	49H	Consent of Secretary for Justice required for prosecution	L.N. 362 of 1997	01/07/1997
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No prosecution for an offence under this Part shall be instituted except with the consent of the Secretary for Justice.

(Amended L.N. 362 of 1997)

Section:	49I	Amendment of Fourth Schedule		30/06/1997
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The Secretary for Security may by order published in the Gazette amend the Fourth Schedule.

Part:	VIII	MISCELLANEOUS	13 of 1999	01/07/1997
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Section:	50	Amendment of First, Second and Third Schedules	13 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 13 of 1999 s. 3

(1) The Chief Executive may by order published in the Gazette amend the First and Third Schedules. (Replaced 65 of 1981 s. 3. Amended 62 of 1994 s. 7; 13 of 1999 s. 3)

(2) The Secretary for Security may by order published in the Gazette amend the Second Schedule. (Added 62 of 1994 s. 7)

Section:	51	Regulations	13 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 13 of 1999 s. 3

(1) The Chief Executive in Council may make regulations for all or any of the following matters- (Amended 13 of 1999 s. 3)

- (a) the keeping of registers and other records by persons authorized by or licensed under this Ordinance to manufacture, procure, supply or possess dangerous drugs, and the furnishing of information by such persons;
- (b) the preservation of such registers and records and of other documents kept, issued or made pursuant to or for the purposes of this Ordinance;
- (c) requirements with respect to prescriptions;
- (d) the marking of packages and bottles containing dangerous drugs;
- (e) the period for which a licence issued under section 18 is valid;
- (f) the fees payable on the issue of a licence under section 18;
- (g) the form of any document, other than a licence or certificate, required by, under or for the purposes of this Ordinance.

(2) Regulations made under this section may provide that a contravention of specified provisions thereof shall be an offence and may provide penalties therefor not exceeding a fine of \$450000 and imprisonment for 3 years. (Amended L.N. 201 of 1996)

Section:	52	Powers of authorized officers	L.N. 362 of 1997	01/07/1997
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(1) For the purposes of this Ordinance, any police officer and any member of the Customs and Excise Service may-

- (a) stop, board and search any ship, aircraft, vehicle or train which has arrived in Hong Kong (not being a ship of war or a military aircraft), and remain thereon as long as it remains in Hong Kong;
- (b) search any person arriving in Hong Kong or about to depart from Hong Kong;
- (c) search any thing imported into or to be exported from Hong Kong;
- (d) stop, board and search any ship, aircraft, vehicle or train if he has reason to suspect that there is therein an article liable to seizure;
- (e) without a warrant issued under subsection (1E) where it would not be reasonably practicable to obtain such a warrant, enter and search any place or premises if he has reason to suspect that there is therein an article liable to seizure; or (Amended 62 of 1994 s. 8)
- (f) stop and search any person, and search the property of any person, if-
 - (i) he has reason to suspect that such person has in his actual custody an article liable to seizure; or
 - (ii) such person is found in any ship, aircraft, vehicle, train, place or premises in which an article liable to seizure is found.

(1A) For the purposes of enabling a person to be searched under subsection (1)(f)(i), a police officer of or above the rank of inspector or a member of the Customs and Excise Service of or above the rank of inspector may request a registered medical practitioner or nurse registered or enrolled or deemed to be registered or enrolled under the Nurses Registration Ordinance (Cap 164), to examine the body cavities of that person. (Added 40 of 1982 s. 3)

(1B) A medical practitioner or nurse requested to examine the body cavities of a person under subsection (1A) may search the rectum, vagina, ears and any other body cavity of that person. (Added 40 of 1982 s. 3)

(1C) A medical practitioner or nurse carrying out an examination of a person at the request, under subsection (1A), of a police officer or member of the Customs and Excise Service who appears to be lawfully engaged in the performance of his duty shall not be bound to inquire whether or not the police officer or member is acting lawfully or within the scope of his duty. (Added 40 of 1982 s. 3)

(1D) A police officer or member of the Customs and Excise Service may detain a person in respect of whom a request is to be or has been made to a medical practitioner or nurse under subsection (1A) for such time as may reasonably be necessary to permit a medical practitioner or nurse to complete an examination of the body cavities of that person under this section. (Added 40 of 1982 s. 3)

(1E) Where it appears to any magistrate upon the oath of any person that there is reasonable cause to suspect that in any place there is an article liable to seizure under this Ordinance, or with respect to which an offence has been committed or is about to be committed against the provisions of this Ordinance, the magistrate may, by his warrant directed to any police officer or to any member of the Customs and Excise Service, empower such officer or member by day or by night to enter the place named in the warrant and there to search for and seize, remove and detain any such article. (Added 62 of 1994 s. 8)

(2) For the purpose of enabling a ship or aircraft to be searched under subsection (1)-

- (a) the Commissioner of Customs and Excise or the Commissioner of Police may by order in writing under his hand detain a ship for not more than 12 hours or an aircraft for not more than 6 hours; and (Amended 40 of 1985 s. 9)
- (b) the Chief Secretary for Administration may, by order in writing under his hand, detain a ship or aircraft for further periods of not more than 12 hours in the case of a ship or not more than 6 hours in the case of an aircraft. (Amended L.N. 362 of 1997)

Any order made under this subsection shall state the times from which and for which the order is effective.

(3) Any public officer may seize, remove and detain any thing if he has reason to suspect that such thing is an article liable to seizure.

(4) Any public officer authorized in writing by the Director may uproot, seize, remove and destroy any plant of the genus cannabis or the opium poppy.

(5) For the purposes of this Ordinance, any public officer authorized in writing by the Director may-

- (a) enter, inspect and search any place or premises occupied by-
 - (i) a person authorized by virtue of section 22(1)(a), (b) or (c) or (5A) or by virtue of section 24(1); (Amended 2 of 1992 s. 11)
 - (ii) a person whose authorization as aforesaid has been withdrawn under section 33 and the withdrawal suspended;
 - (iii) a person by whom any such person as aforesaid is employed; or
 - (iv) a person to whom a licence has been issued under this Ordinance;

- (b) require the production of, and inspect, any register, record, book, prescription or other document kept or made pursuant to the requirements, or for the purposes, of this Ordinance or any other document relating to dealings in a dangerous drug by or on behalf of any such person as aforesaid; and
- (c) inspect any stocks of a dangerous drug in the possession of any such person as aforesaid.

(6) For the purposes of this Ordinance, any public officer authorized in writing by the Director may-

- (a) enter, inspect and search a hospital or institution specified in the Second Schedule or any place or premises occupied for the purposes of any such hospital or institution;
- (b) require the production of, and inspect, any register, record, book, prescription or other document kept or made in any such hospital or institution pursuant to the requirements, or for the purposes, of this Ordinance or any other document relating to dealings in a dangerous drug for the purposes of such hospital or institution; and
- (c) inspect any stocks of a dangerous drug in any such hospital or institution or in any such place or premises.

(7) An authorization given by the Director under this section may be given to a police officer, member of the Customs and Excise Service or public officer by name or may be given to any police officer, member of the Customs and Excise Service or other public officer for the time being holding such rank or public office as the Director may specify, and may extend to all the powers specified in subsection (2), (4) or (5), as the case may be, or to such of those powers as the Director may specify.

(8) Any public officer may-

- (a) break open any outer or inner door of or in any place or premises which he is empowered by this section to enter and search;
- (b) forcibly board any ship, aircraft, vehicle or train which he is empowered by this section to board and search;
- (c) remove by force any person or thing who or which obstructs any entry, search, inspection, seizure, removal or detention which he is empowered by this section to make;

- (d) detain every person found in any place or premises which he is empowered by this section to search until the same has been searched; and
 - (e) detain every person on board any ship, aircraft, vehicle or train which he is empowered by this section to search, and prevent any person from approaching or boarding such ship, aircraft, vehicle or train, until it has been searched.
- (9) (a) (i) An examination of the body cavities of a person under this section shall, unless that person otherwise consents, be carried out by a medical practitioner or nurse of the same sex as that person.
- (ii) Where a female has consented, under sub-paragraph (i), to an examination of her body cavities by a medical practitioner or nurse of the opposite sex, such examination shall be in the presence of another female.
- (b) Subject to paragraph (a), no female shall be searched under this section except by a female.
- (c) No person shall be searched under this section in a public place if he objects to being so searched. (Replaced 40 of 1982 s. 3)

(9A) The provisions of this Ordinance (including section 56) which could, but for this subsection, apply to a thing seized under this section shall not apply to the thing if it has been so seized on the ground that it is suspected to be specified property referred to in paragraph (d) of the definition of "article liable to seizure". (Added 89 of 1995 s. 35)

(9B) For the avoidance of doubt, it is hereby declared that where a thing referred to in subsection (9A) is released under section 24C(4) of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405), that subsection shall not operate to prevent the application of the provisions of this Ordinance (including this section and section 56) to that thing at any time on or after such release. (Added 89 of 1995 s. 35)

(10) In this section-

"article liable to seizure" (可予扣押的物件) means-

- (a) any dangerous drug referred to in section 55;
- (b) any money or thing liable to forfeiture under this Ordinance or forfeiture or confiscation under a corresponding law; (Amended 89 of 1995 s. 35)
- (c) any thing which is or contains evidence of-
 - (i) an offence under this Ordinance or a corresponding law;
 - (ii) a drug trafficking offence within the meaning of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405); (Replaced 89 of 1995 s. 35)
- (d) any specified property within the meaning of Part IVA of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405); (Added 89 of 1995 s. 35)

"Commissioner of Customs and Excise" (香港海關關長) includes a Deputy Commissioner of Customs and Excise and an Assistant Commissioner of Customs and Excise; (Added 40 of 1985 s. 9. Amended L.N. 362 of 1997)

"Commissioner of Police" (警務處處長) includes a deputy or assistant commissioner of police.

Section:	53	Failure to comply with requirement under section 52 and obstruction of authorized officer		30/06/1997
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Any person who-

- (a) fails to comply with a requirement of a public officer under section 52(5)(b) or (6)(b); or
- (b) obstructs a public officer in the exercise of any power conferred on him by section 52,

shall be guilty of an offence and shall be liable on conviction to a fine of \$1000 and to imprisonment for 6 months.

Section:	53A	Surrender of travel document	10 of 2005	08/07/2005
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(1) A magistrate may, on the application of the Commissioner of Police or the Commissioner of Customs and Excise, by written notice require a person who is the subject of an investigation in respect of a specified offence alleged or suspected to have been committed by him to surrender to the Commissioner of Police or Commissioner of Customs and Excise any travel document in his possession. (Amended 40 of 1985 s. 9)

- (2) The matter of an application under subsection (1) shall be substantiated by the oath of the applicant.
- (3) A notice under subsection (1) shall be served personally on the person to whom it is addressed.
- (4) A person on whom a notice under subsection (1) is served shall comply with such notice forthwith.

(4A) Subject to subsection (8), a person to whom a notice under subsection (1) is addressed shall not leave Hong Kong, whether or not the notice has been served on him under subsection (3), before the expiry of a period of 3 months from the date of the notice unless-

- (a) an application made under section 53B(1) for the return of a travel document is granted; or
- (b) an application made under section 53C(1) for permission to leave Hong Kong is granted. (Added 10 of 2005 s. 39)

(5) If a person on whom a notice under subsection (1) has been served fails to comply with the notice forthwith, he may be arrested and taken before a magistrate. (Amended 10 of 2005 s. 39)

(6) Where a person is taken before a magistrate under subsection (5), the magistrate shall, unless such person thereupon complies with the notice under subsection (1) or satisfies the magistrate that he does not possess a travel document, by warrant commit him to prison there to be safely kept-

- (a) until the expiry of the period of 28 days from the date of his committal to prison as aforesaid; or
- (b) until such person complies with the notice under subsection (1) and a magistrate, by order in that behalf, orders and directs the Commissioner of Correctional Services to discharge such person from prison (which order shall be sufficient warrant for the Commissioner of Correctional Services so to do), (Amended L.N. 30 of 1982)

whichever occurs first.

(7) Upon the surrender of a travel document under this section, the Commissioner of Police or the Commissioner of Customs and Excise, as the case may be, shall issue a receipt identifying the travel document. (Amended 40 of 1985 s. 9)

(7A) Subject to subsection (8), a travel document surrendered to the Commissioner of Police or the Commissioner of Customs and Excise in compliance with a notice under subsection (1) may be detained for a period of 3 months from the date of the notice unless an application made under section 53B(1) for the return of the travel document is granted. (Added 10 of 2005 s. 39)

(8) The period of 3 months referred to in subsections (4A) and (7A) may be extended for not more than 2 further periods of 3 months if a magistrate, on application by the Commissioner of Police or the Commissioner of Customs and Excise, is satisfied that the investigation could not reasonably have been completed before the date of such application and authorizes such extension. (Amended 40 of 1985 s. 9; 10 of 2005 s. 39)

(9) All proceedings before a magistrate under this section shall be conducted in chambers.

(10) In this section and sections 53B and 53C- (Amended 10 of 2005 s. 39)

"Commissioner of Customs and Excise" (香港海關關長) includes a Deputy Commissioner of Customs and Excise and an Assistant Commissioner of Customs and Excise; (Added 40 of 1985 s. 9. Amended L.N. 362 of 1997)

"Commissioner of Police" (警務處處長) includes a deputy or assistant commissioner of police;

"specified offence" (指明罪行) means any offence punishable under any section of this Ordinance, on conviction on indictment, with imprisonment for a term of 15 years or any greater punishment, and aiding, abetting, counselling or procuring the commission by another of any such offence;

"travel document" (旅行證件) means a passport or other document issued for the purpose of travel which establishes the identity or nationality of the holder.

(Added 60 of 1977 s. 2)

Section:	53B	Application for return of travel document		30/06/1997
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(1) A person who has surrendered his travel document in accordance with section 53A may at any time make written application to the Commissioner of Police or the Commissioner of Customs and Excise, as the case may be, for its return and every such application shall contain a statement of the grounds on which it is made. (Amended 40 of 1985 s. 9)

(2) Before determining an application under subsection (1), the Commissioner of Police or the Commissioner of Customs and Excise may require that any matter of fact relied on in the application shall be substantiated by statutory declaration. (Amended 40 of 1985 s. 9)

(3) Any person aggrieved by the refusal of an application under subsection (1) may, within 14 days of being informed of such refusal, appeal to a magistrate against that refusal and the magistrate may, upon considering the grounds of the application and any evidence which may be adduced in relation thereto by or on behalf of either party, order that the travel document be returned.

(4) The decision of a magistrate in relation to an appeal under this section shall be final.

(Added 60 of 1977 s. 2)

Section:	53C	Application for permission to leave Hong Kong	10 of 2005	08/07/2005
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(1) Without prejudice to section 53B, a person on whom a notice under section 53A(1) is served may at any time make written application to the Commissioner of Police or the Commissioner of Customs and Excise, as the case may be, for permission to leave Hong Kong and every such application shall contain a statement of the grounds on which it is made.

(2) Before determining an application under subsection (1), the Commissioner of Police or the Commissioner of Customs and Excise may require that any matter of fact relied on in the application shall be substantiated by statutory declaration.

(3) Any person aggrieved by the refusal of an application under subsection (1) may, within 14 days of being informed of such refusal, appeal to a magistrate against that refusal and the magistrate may, upon considering the grounds of the application and any evidence which may be adduced in relation thereto by or on behalf of either party, order that the person be permitted to leave Hong Kong.

(4) The decision of a magistrate in relation to an appeal under this section shall be final.

(Added 10 of 2005 s. 40)

Section:	54	Chemical tests and handwriting		30/06/1997
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(1) Any police officer not below the rank of inspector or any member of the Customs and Excise Service not below the rank of inspector may require any person whom he reasonably suspects to be guilty of an offence under this Ordinance- (Amended 13 of 1973 s. 2)

(a) to have his finger nails pared and his hands washed in water for the purpose of analysis of such finger nails and water; or

(b) to give a specimen of his handwriting for the purpose of comparison.

(2) Any person who fails to comply with a requirement under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$1000.

Section:	54A	Court to consider report of the Commissioner of Correctional Services in the case of certain drug offences		30/06/1997
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(1) Subject to subsection (1A), no sentence, other than a non-custodial sentence, shall be imposed on a person for an offence against section 8 or 36 unless the court has first considered a report of the Commissioner of Correctional Services on the suitability of such person for cure and rehabilitation and on the availability of places at addiction treatment centres (as defined in the Drug Addiction Treatment Centres Ordinance (Cap 244)) (Amended L.N. 30 of 1982; 24 of 1987 s.4)

(1A) Subsection (1) shall not apply where a person is convicted of an offence against section 8 or 36 or of offences against both those sections and that person-

(a) is convicted in the same proceedings of any other offence and is sentenced for that other offence to imprisonment for more than 9 months; or

(b) is at the time of conviction serving a term of imprisonment of more than 9 months,

but, in such a case, the court may if it thinks fit consider a report specified in subsection (1) before sentencing that person for the offence against section 8 or 36. (Added 24 of 1987 s. 4)

(1B) Where a court is required or has decided to consider a report under this section before sentencing a person but has not received such a report, it shall remand that person in the custody of the Commissioner of Correctional Services for such period, not exceeding 3 weeks, as the court thinks necessary to enable such a report to be made. (Added 24 of 1987 s. 4)

(2) The Commissioner of Correctional Services shall, in his report under this section, inform the court whether or not a detention order under the Drug Addiction Treatment Centres Ordinance (Cap 244) has previously been made in respect of the person to whom the report relates. (Amended L.N. 30 of 1982; 24 of 1987 s. 4)

(3) Section 4(3) of the Drug Addiction Treatment Centres Ordinance (Cap 244) shall not apply where a report is obtained under this section.

(4) In this section "non-custodial sentence" (非拘留性判決) means one or more of the following sentences-

- (a) a fine;
- (b) a probation order under section 3 of the Probation of Offenders Ordinance (Cap 298);
- (c) a suspended sentence of imprisonment under section 109B of the Criminal Procedure Ordinance (Cap 221)

(Added 67 of 1979 s. 4)

Section:	54AA	Taking of urine samples	L.N. 100 of 2001	01/07/2001
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(1) In any investigation in respect of an offence committed or believed to have been committed, a urine sample may be taken from a person only if-

- (a) a police officer of or above the rank of superintendent or a member of the Customs and Excise Service of or above the rank of superintendent ("authorizing officer") authorizes it to be taken;
- (b) the appropriate consent is given; and
- (c) a magistrate gives approval under subsection (7) for it to be taken.

(2) An authorizing officer may only give an authorization as required under subsection (1)(a) if he has reasonable grounds-

- (a) for suspecting that the person from whom the urine sample is to be taken has committed a serious arrestable offence; and
- (b) for believing that the sample will tend to confirm or disprove the commission of the offence by that person.

(3) An authorizing officer must give an authorization pursuant to subsection (2) in writing.

(4) Where an authorization has been given pursuant to subsection (2), a police officer or a member of the Customs and Excise Service may request the person from whom the urine sample is to be taken and that person's parent or guardian if he is under the age of 18 years, to give the appropriate consent to the taking of the sample and the officer or the member, in making the request, shall inform the person and his parent or guardian, as the case may be-

- (a) of the nature of the offence in which the person is suspected to have committed;
- (b) that there are reasonable grounds to believe that the sample will tend to confirm or disprove the commission of the offence by that person;
- (c) that he may or may not give his consent to the taking of the sample;
- (d) that if he consents to the taking of the sample, he may at any time withdraw that consent before the sample is taken;
- (e) that the sample will be analysed and the information derived from such analysis may provide evidence that might be used in criminal proceedings for such offence or any other offence in relation to dangerous drugs; and
- (f) that he may make a request to a police officer or a member of the Customs and Excise Service for access to the information derived from the sample.

(5) The person from whom a urine sample was taken pursuant to subsection (1) is entitled to access to the information derived from the sample.

(6) The appropriate consent must be given in writing and signed by the person or persons giving the consent.

(7) Where an authorization and the appropriate consent as required under subsection (1)(a) and (b) have been given, a police officer or a member of the Customs and Excise Service shall make an application to a magistrate in accordance with the Seventh Schedule for the magistrate's approval as required under subsection (1)(c) and the magistrate may give his approval in accordance with that Schedule.

(8) A urine sample may only be taken from a person by a police officer or a member of the Customs and Excise Service of the same sex as that person.

(9) In this section-

"appropriate consent" (適當的同意) means-

- (a) in relation to a person who has attained the age of 18 years, the consent of that person;
- (b) in relation to a person who has not attained the age of 18 years, the consent both of that person and of his parent or guardian;

"serious arrestable offence" (嚴重的可逮捕罪行) means an offence in relation to dangerous drugs for which a person may under or by virtue of any law be sentenced to imprisonment for a term not less than 7 years.

(Added 68 of 2000 s. 2)

Section:	54AB	Use and disposal of urine samples and information derived from analysis	L.N. 100 of 2001	01/07/2001
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(1) Without prejudice to subsection (4), no person shall have access to, dispose of or use a urine sample taken pursuant to section 54AA except for the purposes of forensic analysis in the course of an investigation of any offence in relation to dangerous drugs.

(2) Without prejudice to subsection (4), no person shall have access to, disclose or use any information derived from the forensic analysis of a urine sample taken pursuant to section 54AA except for the purposes of-

- (a) any proceedings for an offence in relation to dangerous drugs; or
- (b) making the information available to the person to whom the information relates.

(3) Any person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

(4) Whether or not a urine sample taken pursuant to section 54AA or any information derived from the forensic analysis of the sample has been destroyed under subsection (5), no person shall use the sample or information in any proceedings for an offence in relation to dangerous drugs after-

- (a) it is decided that a person from whom the sample was taken shall not be charged with any offence in relation to dangerous drugs;
- (b) if the person has been charged with one or more such offences-
 - (i) the charge or all the charges, as the case may be, is or are withdrawn;
 - (ii) the person is discharged by a court before conviction of the offence or all the offences, as the case may be; or
 - (iii) the person is acquitted of the offence or all the offences, as the case may be, at trial or on appeal, whichever occurs first.

(5) The Commissioner of Police or the Commissioner of Customs and Excise, as the case may be, shall take reasonable steps to ensure that-

- (a) a urine sample taken pursuant to section 54AA; and
- (b) all information derived from the forensic analysis of the sample,

which may be retained by him or on his behalf are destroyed as soon as practicable after-

- (i) if the person from whom the sample was taken has not been charged with any offence in relation to dangerous drugs, the expiry of-
 - (A) subject to subparagraph (B), 12 months from the date on which the sample is taken ("the relevant period"); or
 - (B) such further period or periods as may be extended under subsection (6) ("the extended period");
- (ii) if the person has been charged with one or more offences in relation to dangerous drugs within the relevant period and the extended period, if any-
 - (A) the charge or all the charges, as the case may be, is or are withdrawn;
 - (B) the person is discharged by a court before conviction of the offence or all the offences, as the case may be; or
 - (C) the person is acquitted of the offence or all the offences, as the case may be, at trial or on appeal, whichever occurs first.

(6) A police officer of or above the rank of chief superintendent or a member of or above the rank of chief superintendent of the Customs and Excise Service may extend or further extend the relevant period for not more than 6 months for each extension if he is satisfied on reasonable grounds that it is necessary to the continuing investigation of the offence or offences in relation to which the sample was taken that the sample and the information derived from the forensic analysis of the sample be retained.

(7) Without prejudice to the operation of subsections (5) and (6), if-

- (a) a person from whom a urine sample was taken pursuant to section 54AA has been convicted of one or more offences in relation to dangerous drugs; and
- (b) there is no other charge against the person-
 - (i) in relation to dangerous drugs; and
 - (ii) which renders the retention of the sample necessary,

then the Commissioner of Police or the Commissioner of Customs and Excise, as the case may be, shall take reasonable steps to ensure that the sample which may be retained by him or on his behalf is destroyed as soon as practicable after the conclusion of all proceedings (including any appeal) arising out of the conviction.

(Added 68 of 2000 s. 2)

Section:	54AC	Amendment of Seventh Schedule	L.N. 100 of 2001	01/07/2001
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The Chief Executive in Council may by order published in the Gazette amend the Seventh Schedule but any order to amend that Schedule shall be subject to the approval of the Legislative Council.

(Added 68 of 2000 s. 2)

Section:	55	Dangerous drugs forfeited by law	13 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 13 of 1999 s. 3

Any dangerous drug in respect of which an offence under this Ordinance is being or has been committed, and any dangerous drug in transit-

- (a) which was accompanied, when it was brought into Hong Kong, by a false export authorization or diversion certificate or by an export authorization or diversion certificate which was obtained by fraud or by the wilful misrepresentation or omission of a material particular; or
- (b) which, not being accompanied by an export authorization or diversion certificate when it was brought into Hong Kong, was being conveyed for an unlawful purpose or was in transit for the purpose of being imported into another country in contravention of the laws of that country,

shall, with effect from the seizure thereof under section 52, be forfeited to the Government.

(Amended 13 of 1999 s. 3)

Section:	56	Forfeiture of articles, etc., used in connection with offence	13 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 13 of 1999 s. 3

(1) A court may (whether or not any person has been convicted of such offence) order to be forfeited to the Government-

- (a) any money or thing (other than premises, a ship exceeding 250 gross tons, an aircraft or a train) which has been used in the commission of or in connection with;
- (b) any money or other property received or possessed by any person as the result or product of,

an offence under this Ordinance or a drug trafficking offence within the meaning of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405). (Amended 89 of 1995 s. 36)

(2) An order under subsection (1) for the forfeiture of a thing may include a term permitting a specified person or persons to redeem such thing on such conditions, including conditions as to the payment of the value or a proportion of the value thereof to the Government, as the court may think fit.

(3) The court may require that notice of an application for forfeiture under subsection (1) shall be given in such manner as it thinks fit.

(4) The Chief Executive in Council may, in his absolute discretion and after any proceedings under this Ordinance are concluded, entertain and give effect to any moral claim to or in respect of any money, thing or other property which has been forfeited to the Government.

(Amended 13 of 1999 s. 3)

Section:	56A	Sentencing in respect of specified offences		30/06/1997
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(1) Subject to subsection (5), where a person (other than a minor) has been convicted of a specified offence and-

- (a) a court is satisfied beyond reasonable doubt as to any information furnished under subsection (2); or
- (b) any such information is agreed by the person,

then the court-

- (i) shall have regard to such information when it passes a sentence on the person for the offence; and
- (ii) may, if it thinks fit, pass a sentence on the person for that offence that is more severe than the sentence it would, in the absence of such information, have passed.

(2) Information which may be furnished to a court under this subsection is any information which proves that the commission of the relevant specified offence involved a minor and, without limiting the generality of the foregoing, the information may relate to any of the following-

- (a) the procuring, supplying or trafficking by whatever means of a dangerous drug for or to a minor for possession or otherwise by a person;
- (b) a person obtaining by whatever means a dangerous drug from a minor;
- (c) provision by a person to a minor of any pipe, equipment or apparatus fit and intended for the smoking, inhalation, ingestion or injection of a dangerous drug;
- (d) a person intentionally or unintentionally employing, hiring, using, persuading, enticing, or coercing a minor in the commission of a specified offence or the avoidance of detection or apprehension of such and offence;
- (e) use of a minor in assisting the operation or management of premises which are used as a divan or for unlawful trafficking, manufacturing, or storage of a dangerous drug.

(3) Only information that would be admissible in evidence in criminal proceedings (including proceedings in respect of sentencing) may be furnished to the court under subsection (2).

(4) Where the prosecution seeks to furnish information to a court under subsection (2), the court shall allow the person convicted of the relevant specified offence an opportunity to-

- (a) object to the reception of the information; and
- (b) where such information is received by the court, furnish other information regarding that first-mentioned information.

(5) A sentence passed pursuant to subsection (1) shall not exceed the maximum penalty permitted by law for the relevant specified offence.

(6) This section shall operate without prejudice to any other information that may be furnished to a court before a person is sentenced, or to any other information to which a court shall or may have regard when sentencing a person for any offence.

(7) The power of a court to pass a more severe sentence under subsection (1) shall extend to-

- (a) conspiracy to commit;
- (b) inciting another to commit;
- (c) attempting to commit; and
- (d) aiding, abetting, counselling or procuring the commission of,

a specified offence.

(8) This section shall not apply to a person who is convicted of a specified offence committed before the commencement of this section.

(9) In this section-

"court" (法庭) includes a magistrate;

"specified offence" (指明罪行) means any offence under section 4, 4A, 5, 6, 8, 9, 35, 36 or 37.

(Added 22 of 1997 s. 2)

Section:	57	Protection of informers	30/06/1997
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(1) Save as provided in subsection (2)-

- (a) no information for an offence under this Ordinance shall be admitted in evidence in any civil or criminal proceeding; and
- (b) no witness in any civil or criminal proceeding shall be obliged-
 - (i) to disclose the name or address of any informer who has given information to the police with respect to an offence under this Ordinance or of any person who has assisted the police in any way with respect to such an offence; or
 - (ii) to answer any question if the answer thereto would lead, or would tend to lead, to discovery of the name or address of such informer or person,

if, in either case, such informer or person is not himself a witness in such proceeding,

and, if any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceeding contain an entry in which any such informer or person is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated so far as may be necessary to protect the informer or such person from discovery.

(2) If in any proceeding before a court for an offence under this Ordinance the court, after full inquiry into the case, is satisfied that an informer wilfully made a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding a court is of opinion that justice cannot be fully done between the parties thereto without disclosure of the name of an informer or a person who has assisted the police, the court may permit inquiry and require full disclosure concerning the informer or such person.

Section:	58	Power of Chief Executive to give directions	13 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 13 of 1999 s. 3

(1) The Chief Executive may give to any public officer, other than a judge, a District Judge or a magistrate, such directions as he thinks fit with respect to the exercise or performance of his powers, functions or duties under this Ordinance, either generally or in any particular case.

(2) A public officer shall, in the exercise or performance of his powers, functions or duties under this Ordinance, comply with any directions given by the Chief Executive under subsection (1).

(Amended 13 of 1999 s. 3)

Schedule:	1		L.N. 7 of 2011	01/04/2011
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PART I

[sections 2, 3 & 22]

DANGEROUS DRUGS

1. The following substances, namely-

- (a) Acetyldihydrocodeine
- Alphacetylmethadol
- Alphamethadol
- Alprazolam
- Amfepramone (Added L.N. 348 of 1998)
- Aminorex
- Amphetamine
- Barbitone
- Benzylmorphine
- (3-benzylmorphine)
- Betacetylmethadol
- Betamethadol
- Bezitramide
- Bromazepam
- Brotizolam
- Camazepam
- Cannabinol and its tetrahydro derivatives;
- their 3-alkyl homologues
- Cathine (Added L.N. 348 of 1998)
- Cathinone
- Chlordiazepoxide
- Clobazam
- Clonazepam
- Clonitazene
- Clorazepate
- Clotiazepam
- Cloxazolam
- Cocaine
- Codeine

Codoxime
Delorazepam
Desomorphine
Dextromoramide
Dextropropoxyphene
Diampromide
 (N-[2-(N-methylphenethylamine)propyl] propionanilide)
Diazepam
Diethylthiambutene
Difenoxin
Dihydrocodeine
Dihydroetorphine (Added L.N. 166 of 2000)
Dihydromorphine
Dimenoxadol
Dimepheptanol
Dimethylthiambutene
Dioxaphetyl butyrate
Dipipanone
Drotebanol
Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine
Estazolam
Ethyl Loflazepate
Ethylmethylthiambutene
Eticyclidine
Ethylmorphine
 (3-ethylmorphine)
Etonitazene
Etorphine
Etryptamine (Added L.N. 348 of 1998)
Fentanyl
Fludiazepam
Flunitrazepam
Flurazepam
Gamma-hydroxybutyric acid (Added L.N. 149 of 2001)
Halazepam
Haloxazolam
Heroin
 (diacetylmorphine)
Hydrocodone
 (dihydro-codeinone)
Hydromorphenol
Hydromorphone
Hydroxypethidine
Isomethadone
Ketamine (Added L.N. 329 of 2000)
Ketazolam
Ketobemidone
Levomethorphan
Levomoramide
Levophenacymorphan
Levorphanol
Loprazolam
Lorazepam
Lormetazepam
Lysergamide

Lysergide and other N-alkyl derivatives of lysergamide
Mecloqualone
Medazepam
Mesocarb (Added L.N. 348 of 1998)
Metazocine
Methadone
Methadyl acetate
Methamphetamine
 (methylamphetamine)
Methaqualone
Methcathinone
Methyldesorphine
Methyldihydromorphine
 (6-methyldihydromorphine)
Methyl phenidate
Metopon
Midazolam
Morphine
Morphine methobromide, morphine-N-oxide and other pentavalent nitrogen morphine derivatives
Myrophine
Nabilone (Added L.N. 7 of 2011)
Nicocodine
Nicomorphine (3, 6-dinicotinoyl-morphine)
Nimetazepam
Nitrazepam
Noracylmethadol
Norcodeine
Nordazepam
Norlevorphanol
Normethadone
Normorphine
Norpipanone
Oxazepam
Oxazolam
Oxycodone
Oxymorphone
Pethidine
Phenadoxone
Phenampromide
Phenazocine
Phencyclidine
Phendimetrazine
Phenmetrazine
Phenomorphane
Phentermine
Pholcodine
Pinazepam
Piritramide
Prazepam
Proheptazine
Propiram
Quinalbarbitone
Racemethorphan
Racemoramide
Racemorphan

- Remifentanyl (Added L.N. 166 of 2000)
- Rolicyclidine
- Temazepam
- Tetrazepam
- Tenocyclidine
- Thebacon
- Thebaine
- Tilidate
- Triazolam
- Zipeprol (Added L.N. 348 of 1998)
- 1-Benzylpiperazine (Added L.N. 7 of 2011)
- 4-Cyano-2-dimethylamino-4, 4-diphenylbutane
- 4-Cyano-1-methyl-4-phenylpiperidine
- [2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1, 2, 3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone (Added L.N. 7 of 2011)
- N, N-dimethylamphetamine
- 3-Dimethylheptyl-11-hydroxyhexahydrocannabinol (Added L.N. 7 of 2011)
- 9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol (Added L.N. 7 of 2011)
- [9-Hydroxy-6-methyl-3-[5-phenylpentan-2-yl] oxy-5, 6, 6a, 7, 8, 9, 10, 10a-octahydrophenanthridin-1-yl] acetate (Added L.N. 7 of 2011)
- N-[α -Methyl-3, 4-(methylenedioxy)phenethyl] hydroxylamine
- 1-Methyl-4-phenylpiperidine-4-carboxylic acid
- 2-Methyl-3-morpholino-1, 1-diphenyl-propanecarboxylic acid
- 4-Methyl aminorex
- 4-Methylthioamphetamine (Added L.N. 149 of 2001)
- 4-Phenylpiperidine-4-carboxylic acid ethyl ester;
- (b) any compound (not being a compound for the time being specified in subparagraph (a)) structurally derived from tryptamine or from a ring-hydroxy tryptamine by substitution at the nitrogen atom of the sidechain with one or more alkyl substituents but no other substituent;
- (c) any compound (not being methoxyphenamine or a compound for the time being specified in subparagraph (a)) structurally derived from phenethylamine, an N-alkylphenethylamine, alpha-methylphenethylamine, an N-alkyl- α -methylphenethylamine, α -ethylphenethylamine, or an N-alkyl- α -ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkyl-enedioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents;
- (d) any compound (not being a compound for the time being specified in subparagraph (a)) structurally derived from fentanyl by modification in any of the following ways, that is to say-
- (i) by replacement of the phenyl portion of the phenethyl group by any heteromonocycle whether or not further substituted in the heterocycle;
 - (ii) by substitution in the phenethyl group with alkyl, alkenyl, alkoxy, hydroxy, halogeno, haloalkyl, amino or nitro groups;
 - (iii) by substitution in the piperidine ring with alkyl or alkenyl groups;
 - (iv) by substitution in the aniline ring with alkyl, alkoxy, alkenedioxy, halogeno or haloalkyl groups;
 - (v) by substitution at the 4-position of the piperidine ring with any alkoxy-carbonyl or alkoxyalkyl or acyloxy group;
 - (vi) by replacement of the N-propionyl group by another acyl group;
- (e) any compound (not being a compound for the time being specified in subparagraph (a)) structurally derived from pethidine by modification in any of the following ways, that is to say-
- (i) by replacement of the 1-methyl group by an acyl, alkyl whether or not unsaturated, benzyl or phenethyl group, whether or not further substituted;
 - (ii) by substitution in the piperidine ring with alkyl or alkenyl groups or with a propano bridge, whether or not further substituted;
 - (iii) by substitution in the 4-phenyl ring with alkyl, alkoxy, aryloxy, halogeno or haloalkyl group;
 - (iv) by replacement of the 4-ethoxycarbonyl by any other alkoxy-carbonyl or any alkoxyalkyl or acyloxy group;

- (v) by formation of an N-oxide or of a quarternary base; (Amended L.N. 7 of 2011)
 - (f) any compound (not being a compound for the time being specified in subparagraph (a)) structurally derived from 1-benzylpiperazine or 1-phenylpiperazine by modification in any of the following ways-
 - (i) by substitution at the second nitrogen atom of the piperazine ring with alkyl, benzyl, haloalkyl or phenyl groups;
 - (ii) by substitution in the aromatic ring to any extent with alkyl, alkoxy, alkylendioxy, halide or haloalkyl groups; (Added L.N. 7 of 2011)
 - (g) any compound (not being a compound for the time being specified in subparagraph (a)) structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent; (Added L.N. 7 of 2011)
 - (h) any compound (not being a compound for the time being specified in subparagraph (a)) structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl) ethyl, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent; (Added L.N. 7 of 2011)
 - (i) any compound (not being a compound for the time being specified in subparagraph (a)) structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent; (Added L.N. 7 of 2011)
 - (j) any compound (not being a compound for the time being specified in subparagraph (a)) structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent; (Added L.N. 7 of 2011)
 - (k) any compound (not being a compound for the time being specified in subparagraph (a)) structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the cyclohexyl ring to any extent; (Added L.N. 7 of 2011)
 - (l) any compound (not being bupropion or a compound for the time being specified in subparagraph (a)) structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways-
 - (i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;
 - (ii) by substitution at the 3-position with an alkyl substituent;
 - (iii) by substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure. (Added L.N. 7 of 2011)
2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 not being dextromethorphan or dextrophan.
 3. Any ester or ether of a substance for the time being specified in paragraph 1 or 2.
 4. Any salt of a substance for the time being specified in paragraph 1, 2 or 3.
 5. Concentrate of poppy straw (that is to say, the material arising when poppy straw has entered into a process for the concentration of its alkaloids).
 6. Medicinal opium.
 7. Any preparation, mixture, extract or other substance (whether natural or otherwise) containing any proportion of a substance for the time being specified in paragraph 1 or in any of paragraphs 2 to 6.

8. Opium and opium water.
9. Coca leaves.
10. Poppy straw.
11. Cannabis and cannabis resin.

(Replaced 62 of 1994 s. 9)

PART II

[sections 4, 23 & 24]

PREPARATIONS TO WHICH ORDINANCE APPLIES WITH MODIFICATIONS

13. A preparation of not more than one of the substances specified in paragraph 19 or 20, when-
 - (a) compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse and that the substance cannot be recovered by readily applicable means or in a yield which would constitute a risk to health; and
 - (b) containing not more than 100 milligrams of the substance per dosage unit and with a concentration of not more than 0.5 per cent in undivided preparations. (Amended 62 of 1994 s. 9)
14. A preparation of cocaine containing not more than 0.1 per cent of cocaine calculated as cocaine base, being a preparation compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse and that the cocaine cannot be recovered by readily applicable means or in a yield which would constitute a risk to health.
15. A preparation of medicinal opium or of morphine containing (in either case) not more than 0.2 per cent of morphine calculated as anhydrous morphine base, being a preparation compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse and that the opium or, as the case may be, the morphine cannot be recovered by readily applicable means or in a yield which would constitute a risk to health.
16. A preparation of diphenoxylate containing, per dosage unit, not more than 2.5 milligrams of diphenoxylate calculated as base and not less than 25 micrograms of atropine sulphate. (Amended L.N. 324 of 1980)
- 16A. A preparation of difenoxin containing, per dosage unit, not more than 0.5 milligram of difenoxin calculated as base and a quantity of atrophine sulphate equivalent to at least 5% of the dose of difenoxin. (Added L.N. 321 of 1977. Amended L.N. 324 of 1980)
- 16B. A preparation for oral use containing not more than 135 milligrams of dextropropoxyphene base per dosage unit or with a concentration of not more than 2.5 per cent in undivided preparations:
 Provided that such preparations do not contain any substance specified in the Third Schedule to the Pharmacy and Poisons Regulations (Cap 138 sub. leg. A). (Added L.N. 185 of 1983)
- 16C. A preparation of Propiram containing not more than 100 milligrams of propiram per dosage unit and compounded with at least the same amount of methylcellulose. (Added L.N. 185 of 1983)
17. Pulvis Ipecacuanhae et Opii Compositus-
 - 10 per cent opium, in powder,
 - 10 per cent Ipecacuanhae root, in powder, well mixed with
 - 80 per cent of any other powdered ingredient containing no dangerous drug.
18. Mixtures containing not more than one of the preparations specified in paragraphs 13 to 17, being mixtures whereof none of the other ingredients is a dangerous drug.

PART III

[sections 25, 26 & 32]

DANGEROUS DRUGS TO WHICH ORDINANCE APPLIES WITH OTHER MODIFICATIONS

19. The following substances, namely-
 - Acetyldihydrocodeine
 - Codeine
 - Dextropropoxyphene
 - Dihydrocodeine
 - Ethylmorphine (3-ethylmorphine)
 - Nicocodine
 - Norcodeine
 - Pholcodine
 - Propiram (Amended L.N. 185 of 1983)
20. Any salt of a substance specified in paragraph 19.
21. Any preparation, mixture, extract or other substance containing any proportion of a substance specified in paragraph 19 or 20, being a preparation, mixture, extract or other substance whereof none of the other ingredients is a dangerous drug. (Amended 46 of 1971 s. 10)
22. Any other preparation specified in Part II of this Schedule.

PART IV

[sections 24, 25 & 26]

PREPARATIONS WHICH MAY BE SOLD BY RETAIL BY LISTED SELLERS OF POISONS UNDER PHARMACY AND POISONS ORDINANCE (CAP 138)

(Amended 46 of 1971 s. 10)

23. Any preparation containing not more than 0.1 per cent of cocaine, being a preparation compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse and that the substance contained therein cannot be recovered by readily applicable means or in a yield which would constitute a risk to health. (Replaced L.N. 348 of 1998)

Schedule:	2	PRESCRIBED HOSPITALS AND INSTITUTIONS, OTHER THAN HOSPITALS MAINTAINED BY THE GOVERNMENT	L.N. 56 of 2011	04/06/2011
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[sections 2, 50 & 52]
(Amended L.N. 59 of 1999)

Alice Ho Miu Ling Nethersole Hospital (雅麗氏何妙齡那打素醫院)
 Alice Ho Miu Ling Nethersole Nursing Home (雅麗氏何妙齡那打素護養院)
 Au Tau Youth Centre (凹頭青少年中心)
 Bradbury Hospice (白普理寧養中心)
 Buddhist Li Chong Yuet Ming Nursing Home for the Elderly (佛教李莊月明護養院)
 Canossa Hospital (Caritas) (嘉諾撒醫院)
 Caritas Medical Centre (明愛醫院)
 Caritas Wong Yiu Nam Centre (明愛黃耀南中心)
 Castle Peak Hospital (青山醫院)
 Cheshire Home, Chung Hom Kok (春磡角慈氏護養院)
 Cheshire Home, Shatin (沙田慈氏護養院)

ELCHK, Grace Court (基督教香港信義會恩頤居) (Added L.N. 56 of 2011)
 Evangel Hospital (播道醫院)
 Evergreen Nursing Home Cum Day Care Centre (松悅園耆欣護養院暨日間護理中心)
 General Eye and Low Vision Centre (普通眼科及低視能中心)
 Grace Nursing Home (Tak Tin) (頌恩護理院(德田))
 Grantham Hospital (葛量洪醫院)
 Haven of Hope Holistic Care Centre (靈實寧養院)
 Haven of Hope Hospital (靈實醫院)
 Haven of Hope Nursing Home (靈實護養院)
 Haven of Hope Sister Annie Skau Nursing Home (靈實司務道護養院)
 Home of Loving Faithfulness (可愛忠實之家)
 Hong Kong Adventist Hospital (香港港安醫院)
 Hong Kong Baptist Hospital (香港浸信會醫院)
 Hong Kong Buddhist Hospital (香港佛教醫院)
 Hong Kong Central Hospital (港中醫院)
 Hong Kong Christian Service Jockey Club Lodge of Rising Sun (香港基督教服務處賽馬會日出山莊)
 Hong Kong Eye Hospital (香港眼科醫院)
 Hong Kong Kidney Foundation Limited (Jockey Club Dialysis Centre) (香港腎臟基金會有限公司(賽馬會洗腎中心))
 Hong Kong Kidney Foundation Limited (Kowloon City Dialysis Centre) (香港腎臟基金會有限公司(九龍城洗腎中心))
 Hong Kong Red Cross Blood Transfusion Service (香港紅十字會輸血服務中心)
 Hong Kong Renal Centre Limited (香港洗腎中心有限公司)
 Hong Kong Sanatorium & Hospital, Limited (香港養和醫院有限公司)
 Hong Kong Sheng Kung Hui Nursing Home (香港聖公會護養院)
 Integrated Dialysis Facilities (HK) Limited (香港綜合腎科中心)
 Kowloon Hospital (九龍醫院)
 Kwai Chung Hospital (葵涌醫院)
 Kwong Wah Hospital (廣華醫院)
 Lions Kidney Educational Centre and Research Foundation Chan Wong Sau Wah Memorial Renal Dialysis Centre (國際獅子會腎病教育中心及研究基金陳黃秀華紀念洗腎中心)
 Lions Kidney Educational Centre and Research Foundation Renal Dialysis Centre (國際獅子會腎病教育中心及研究基金洗腎中心)
 Lock Tao Nursing Home (樂道健康院)
 MacLehose Medical Rehabilitation Centre (麥理浩復康院)
 Matilda & War Memorial Hospital (明德醫院)
 North District Hospital (北區醫院)
 Oasis Nursing Home (紫雲間沁怡護養院)
 Our Lady of Maryknoll Hospital (聖母醫院)
 Pamela Youde Nethersole Eastern Hospital (東區尤德夫人那打素醫院)
 Po Leung Kuk Comfort Court for the Senior (保良局樂安居)
 Po Leung Kuk Eco-Home for the Senior (保良局癸未年樂頤居)
 Po Leung Kuk Kwai Chung Home for the Elderly (保良局葵涌護老院)
 Po Leung Kuk Kwok Law Kwai Chun Home for the Elderly (保良局郭羅桂珍護老院)
 Po Leung Kuk Tin Yan Home for the Elderly cum Green Joy Day Care Centre for the Elderly (保良局天恩護

老院暨耆昌長者日間護理中心)
 Pok Oi Hospital (博愛醫院)
 Pok Oi Hospital Tuen Mun Nursing Home (博愛醫院屯門護養院)
 Precious Blood Hospital (Caritas) (寶血醫院(明愛))
 Prince of Wales Hospital (威爾斯親王醫院)
 Princess Margaret Hospital (瑪嘉烈醫院)
 Queen Elizabeth Hospital (伊利沙伯醫院)
 Queen Mary Hospital (瑪麗醫院)
 Rehabaid Centre (復康專科及資源中心)
 Ruttonjee Hospital (律敦治醫院)
 Scenic Resort (Nursing Home) (雅明灣畔護養院)
 Shatin Hospital (沙田醫院)
 Shatin International Medical Centre Union Hospital (沙田國際醫務中心仁安醫院)
 Shek Kwu Chau Treatment & Rehabilitation Centre (石鼓洲康復院)
 Sheung Shui Sister Aquinas Memorial Women's Treatment Centre (上水區貴雅修女紀念婦女康復中心)
 Siu Lam Hospital (小欖醫院)
 St. John Hospital (長洲醫院)
 St. Paul's Hospital (聖保祿醫院)
 St. Teresa's Hospital (聖德肋撒醫院)
 Tai Po Hospital (大埔醫院)
 Tang Shiu Kin Hospital (鄧肇堅醫院)
 The Duchess of Kent Children's Hospital at Sandy Bay (大口環根德公爵夫人兒童醫院)
 The Hong Kong Anti-Cancer Society Jockey Club Cancer Rehabilitation Centre (香港防癌會賽馬會癌症康復中心)
 The Prince Philip Dental Hospital (菲臘牙科醫院)
 True Light Home for the Aged (真光護老之家)
 Tsan Yuk Hospital (贊育醫院)
 Tseung Kwan O Hospital (將軍澳醫院)
 Tsuen Wan Adventist Hospital (荃灣港安醫院)
 Tuen Mun Hospital (屯門醫院)
 Tung Wah Eastern Hospital (東華東院)
 Tung Wah Group of Hospitals Fung Yiu King Hospital (東華三院馮堯敬醫院)
 Tung Wah Group of Hospitals Haemodialysis Centre (東華三院血液透析中心)
 Tung Wah Group of Hospitals Women's Welfare Club Western District, Hong Kong Residential Care Home for the Elderly (東華三院香港西區婦女福利會護養安老院)
 Tung Wah Group of Hospitals Wong Tai Sin Hospital (東華三院黃大仙醫院)
 Tung Wah Hospital (東華醫院)
 United Christian Hospital (基督教聯合醫院)
 United Christian Nethersole Care Home (基督教聯合那打素護康院)
 Wanchai Nursing Home (灣仔指導所)
 Wong Chuk Hang Hospital (黃竹坑醫院)
 Yan Chai Hospital (仁濟醫院)
 Yan Chai Hospital Au Yeung Sum Memorial Elderly Home cum Day Care Unit (仁濟醫院歐陽森紀念安老院暨日間護理中心)
 Yan Chai Nursing Home (仁濟護養院)

Yuen Yuen Nursing Home cum Day Care Centre for the Elderly (Lei Muk Shue Estate) (圓玄護養院暨長者日間護理中心(梨木樹邨))

Yuen Yuen Nursing Home cum Day Care Centre for the Elderly (Shun Lee Estate) (圓玄護養院暨長者日間護理中心(順利邨))

Yuen Yuen Nursing Home (Sau Mau Ping Estate) (圓玄護養院(秀茂坪邨))

(Schedule 2 replaced L.N. 187 of 1992. Amended L.N. 64 of 2010)

Schedule:	3	OTHER OFFENCES OF WHICH DEFENDANT MAY BE CONVICTED		30/06/1997
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[section 42]

Item	Offence charged	Other offences of which defendant may be convicted
1.	Unlawful trafficking in dangerous drug (section 4)	Trafficking in a substance represented or held out to be a dangerous drug (section 4A) (Added 37 of 1980 s. 4) Possession of dangerous drug (section 8 (1)(a) and (2))
2.	Unlawful manufacturing of dangerous drug (section 6)	Unlawful trafficking in dangerous drug (section 4) Possession of dangerous drug (section 8(1)(a) and (2))
3.	(Repealed 52 of 1992 s. 10)	(Amended 52 of 1992 s. 10)

Schedule:	4	REPORTING AGENCIES	L.N. 57 of 2011	04/06/2011
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

[sections 49A & 49I]

1. Aberdeen Kai-fong Welfare Association Social Service Centre
2. Baptist Oi Kwan Social Service
3. Barnabas Charitable Service Association Limited
4. Canossa Hospital (Caritas)
5. Caritas-Hong Kong
6. Christian Family Service Centre
- 6A. Christian New Life Association Limited (Added L.N. 57 of 2011)
7. Christian Zheng Sheng Association Limited
8. Chu Hai College of Higher Education (Amended L.N. 57 of 2011)
9. City University of Hong Kong
10. Correctional Services Department
11. Customs and Excise Department
12. DACARS, Limited
13. Department of Health
14. Education Bureau (Amended L.N. 130 of 2007)

15. Evangel Hospital
- 15A. Glorious Praise Fellowship (Hong Kong) Limited (Added L.N. 57 of 2011)
16. Hong Kong Adventist Hospital
17. Hong Kong Baptist Hospital
18. Hong Kong Baptist University
19. Hong Kong Central Hospital
20. Hong Kong Children & Youth Services
21. Hong Kong Christian Service
22. Hong Kong Family Welfare Society
23. Hong Kong Lutheran Social Service
24. Hong Kong Playground Association
25. Hong Kong Police Force
26. Hong Kong Sanatorium and Hospital Limited
- 26A. Hong Kong Sheng Kung Hui Welfare Council (Added L.N. 57 of 2011)
27. Hong Kong Young Women's Christian Association
28. Hospital Authority
29. International Social Service Hong Kong Branch
30. KELY Support Group
31. Ling Oi Centre, Finnish Evangelical Lutheran Mission
32. Lingnan University
33. Matilda and War Memorial Hospital
34. Methodist Epworth Village Community Centre
- 34A. Mission Ark Limited (Added L.N. 57 of 2011)
35. Operation Dawn Limited
36. Precious Blood Hospital (Caritas)
37. Social Welfare Department
38. St. James' Settlement
39. St. Paul's Hospital
40. St. Stephen's Society
41. St. Teresa's Hospital
42. Stewards Limited
43. The Boys' and Girls' Clubs Association of Hong Kong
44. The Boys' Brigade, Hong Kong Limited (Amended L.N. 57 of 2011)
45. The Chinese University of Hong Kong
46. The Chinese Young Men's Christian Association of Hong Kong
47. The Christian New Being Fellowship Limited
48. The Church of United Brethren in Christ Hong Kong Limited
49. The Evangelical Lutheran Church of Hong Kong
50. The Hong Kong Council of Social Service
51. The Hong Kong Federation of Youth Groups
52. The Hong Kong Institute of Education
53. The Hong Kong Medical Association
54. The Hong Kong Polytechnic University
55. The Hong Kong University of Science and Technology
56. The Neighbourhood Advice-Action Council
57. The Salvation Army
58. The Society for the Aid and Rehabilitation of Drug Abusers
59. The Society of Rehabilitation and Crime Prevention, Hong Kong
60. The University of Hong Kong
61. Tsuen Wan Adventist Hospital
- 61A. Tung Wah Group of Hospitals (Added L.N. 57 of 2011)
62. Sha Tin International Medical Centre Union Hospital
63. Vocational Training Council
64. Wu Oi Christian Centre
65. Yan Oi Tong Limited

- 66. Yang Memorial Methodist Social Service
- 67. Zion Social Service Limited

(Fourth Schedule replaced L.N. 36 of 2005)

Schedule:	5			30/06/1997
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[section 38A]

First Column	Second Column Dangerous Drug	Third Column Excessive Quantity
1.	Any dangerous drug other than opium or cannabis or cannabis resin.	500 g
2.	opium.	3000 g
3.	Cannabis or cannabis resin.	3000 g

(Fifth Schedule added 48 of 1982 s. 3; Amended 62 of 1994 s. 10)

Schedule:	6			30/06/1997
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[sections 22 & 34A]

- 1. The following substances, namely-

- Alprazolam
- Bromazepam
- Chlordiazepoxide
- Clonazepam
- Diazepam
- Flurazepam
- Lorazepam
- Medazepam
- Nitrazepam
- Oxazolam
- Temazepam

- 2. Any preparation, mixture, extract or other substance containing any proportion of a substance specified in paragraph 1.

(Sixth Schedule added 2 of 1992 s. 12)

Schedule:	7	APPLICATION FOR AND GIVING OF A MAGISTRATE'S APPROVAL FOR THE TAKING OF A URINE SAMPLE	L.N. 100 of 2001	01/07/2001
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[sections 54AA(7) & 54AC]

- 1. An application under section 54AA(7) of this Ordinance must be made in Form 1. A copy of the authorization duly given pursuant to section 54AA(2) of this Ordinance and of appropriate consent duly given and signed under section 54AA(6) of this Ordinance must be exhibited to Form 1.
- 2. Form 1 together with the exhibits referred to in section 1 must be submitted to a magistrate.
- 3. A magistrate, on receiving the application, may-
 - (a) give his approval if he is satisfied that-
 - (i) an authorization has been duly given pursuant to section 54AA(2) of this Ordinance;
 - (ii) there are reasonable grounds-
 - (A) for suspecting that the person from whom the urine sample is to be taken has committed a

- serious arrestable offence; and
 - (B) for believing that the sample will tend to confirm or disprove the commission of the offence by that person; and
 - (iii) the appropriate consent has been duly given under section 54AA(6) of this Ordinance;
 - (b) order that an inter partes hearing shall be conducted in private for the purposes of determining whether the approval should be given or not if he considers that it is necessary in the interest of justice to do so; or
 - (c) reject the application if he thinks fit to do so.
4. An order made under section 3(b) must specify a hearing date and must be served on the applicant and the respondent not less than a period as may be directed by the magistrate before the specified hearing date.
 5. Where an order has been duly served under section 4, the applicant and the respondent must attend before the magistrate on the hearing date specified in the order. The respondent may be represented by his legal representative. The applicant and the respondent (or his legal representative, if any) may make representations at the hearing.
 6. The magistrate, upon hearing the parties, may-
 - (a) give his approval if he is satisfied that-
 - (i) an authorization has been duly given pursuant to section 54AA(2) of this Ordinance;
 - (ii) there are reasonable grounds-
 - (A) for suspecting that the person from whom the urine sample is to be taken has committed a serious arrestable offence; and
 - (B) for believing that the sample will tend to confirm or disprove the commission of the offence by that person; and
 - (iii) the appropriate consent has been duly given under section 54AA(6) of this Ordinance; or
 - (b) reject the application if he thinks fit to do so.
 7. The approval under sections 3(a) and 6(a) must be given in Form 2.

FORM 1

APPLICATION FOR AN APPROVAL FOR THE
TAKING OF A URINE SAMPLE

Section 54AA(7) of the Dangerous
Drugs Ordinance (Cap 134)

Application No.

Writ No.

TO A MAGISTRATE OF HONG KONG
IN THE MAGISTRATES COURT AT

I, (name of the applicant), apply for an approval to the taking of urine sample from (name of the suspect) on the following grounds-

- (a), a police officer of or above the rank of superintendent/a member of the Customs and Excise Service of or above the rank of superintendent* on (date) has given an authorization (which is exhibited to this form) to the taking of the sample from the said person as he has reasonable grounds-
 - (i) for suspecting that the said person has committed a serious arrestable offence, namely an offence contrary to section of the Ordinance (Cap); and
 - (ii) for believing that the sample will tend to confirm or disprove the commission of the offence by the

said person,
relying on the following facts-

(b) the appropriate consent has been given (which is exhibited to this form).

Dated this day of (year).

.....
Applicant.
(signature)

* Delete whichever is inapplicable.

FORM 2

APPROVAL FOR THE TAKING OF A URINE SAMPLE

Section 54AA(7) of the Dangerous
Drugs Ordinance (Cap 134)

Application No.

Writ No.

HONG KONG. IN THE MAGISTRATES COURT AT

To each and all of the police officers of Hong Kong/members of the Customs and Excise Service of Hong Kong*.

APPLICATION has been made to the undersigned, a magistrate of Hong Kong, by (name of the applicant) on (date) and the undersigned magistrate, relying on the facts specified in the said application/upon hearing the parties*, has satisfied that-

- (a), a police officer of or above the rank of superintendent/a member of the Customs and Excise Service of or above the rank of superintendent* on (date) has duly given an authorization to the taking of the sample from (name of the suspect);
- (b) there are reasonable grounds-
 - (i) for suspecting that the said person has committed a serious arrestable offence, namely an offence contrary to section of the Ordinance (Cap); and
 - (ii) for believing that the sample will tend to confirm or disprove the commission of the offence by the said person; and
- (c) the appropriate consent has been duly given.

You are herewith approved to take the urine sample from the said person.

Dated this day of (year).

.....
Magistrate

[L. S.]

* Delete whichever is inapplicable.

(Seventh Schedule added 68 of 2000 s. 3)